



# CONSTITUENT ASSEMBLY OF PAKISTAN DEBATES

Friday, the 6th October, 1950

## OFFICIAL REPORT

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## CONSTITUENT ASSEMBLY OF PAKISTAN

*Friday, the 6th October, 1950*

The Constituent Assembly of Pakistan met in the Assembly Chamber, Karachi, at Five of the Clock, Mr. Chairman (The Honourable Mr. Abdul Hamid) in the Chair.

### INTERIM REPORT OF THE COMMITTEE ON FUNDAMENTAL RIGHTS AND ON MATTERS RELATING TO MINORITIES— (concluded)

#### ARTICLE 5 OF PART II

**Mr. Chairman** (*The Honourable Mr. Abdul Hamid*) : We were considering the Fundamental Rights and we had finished Article 4 of Part II of the Report. Now, we begin from Article 5.

**Mr. M. H. Gazder** (Sind : Muslim) : Sir, I move :

"That after the word "purposes" occurring at the end of the proviso to clause (2) of article 5 of Part II, the words "by law of Federal Legislature" be added."

Sir, by this amendment I want to make a verbal change. Sir, the Article says that all forms of forced labour are declared unlawful provided that the State shall not be prevented from imposing compulsory service for public purposes. It is not very clear here whether it is left to the executive authority or it will be according to some law and I feel that now all sorts of indentured labour should cease and for any public purposes if such a labour is allowed, then it should be under some law.

Sir, I move the amendment.

**Mr. Chairman** (*The Honourable Mr. Abdul Hamid*) : Amendment moved :

"That after the word "purposes" occurring at the end of the proviso to clause (2), of article 5 of Part II, the words "by law of Federal Legislature" be added."

**Mr. M. H. Gazder** : Sir, I would seek your permission to change the words to "in accordance with law".

**Mr. Chairman** (*The Honourable Mr. Abdul Hamid*) : I do not think there is any objection ?

(Voices : No objection.)

**The Honourable Pirzada Abdus Sattar Abdur Rahman** : Sir, this is only a very formal amendment which wants to make the position clear—whether this compulsory service will be prescribed by law. So, I think there is no harm in accepting it as it will make only the things clearer.

**Mr. Chairman** (*The Honourable Mr. Abdul Hamid*) : The question is :

"That after the word "purposes" occurring at the end of the proviso to clause (2) of article 5 of Part II, the words "by law of Federal Legislature" be added."

The motion was adopted.

**Mr. Chairman** (*The Honourable Mr. Abdul Hamid*) : The question is :

"Article 5 of Part II, as amended, be adopted."

The motion was adopted.

## ARTICLES 6, 7 AND 8 OF PART II

Article 6 of Part II was adopted.

Article 7 of Part II was adopted.

Article 8 of Part II was adopted.

## ARTICLE 9 OF PART II

**Shri Dharendra Nath Dutta** (East Bengal : General) : I move, Sir :

"That in Article 9 (2) of Part II, the words 'authority or' in line 4 be omitted."

Mr. Chairman, Sir, the effect of my amendment is this. Article 9 provides for freedom of speech, expression, association, profession, occupation, trade or business, acquisition and disposal of property ; and it also provides the right to move freely throughout Pakistan and the right to equal pay for equal work.

Sir, sub-article (2) of Article 9 places restrictions on these rights. It provides that nothing in this Article shall affect the operation of any existing law or prevent the State from making any law relating to libel, slander, defamation, sedition or any other matter which offends against decency or morality or undermines the authority or foundation of the State.

It puts restriction upon the freedom of speech and expression, Sir, which is the valued right of the citizens. It says, Sir, that the State shall have the right to put restriction in making law for an act which undermines the foundation of the State. That is justifiable. But, Sir, putting restriction on expression of thought has no meaning whatsoever. The citizens of the State have got the right of freedom of speech. The State, Sir, for public purposes has got the right to curtail that right. But the State shall not curtail such rights if it does not undermine the foundation of the State. There is no justification for the State to make any law whatsoever which encroaches upon the valued right of citizenship, namely, the right of speech, etc. Therefore, I suggest that the words 'authority or' should be omitted.

**Mr. Chairman** (*The Honourable Mr. Abdul Hamid*) : Amendment moved :

"That in Article 9 (2) of Part II, the words 'authority or' in line 4 be omitted."

**The Honourable Pirzada Abdus Sattar Abdur Rahman** : Sir, the honourable mover of the amendment has misunderstood the Article. The word 'authority' does not refer to the authority of the Government. 'Authority and foundation' both go together and they refer to the State as a whole. That is how the article stands and certainly it does not want the authority of the State to be undermined. It is the authority of the State which is the important thing and which carries on the functions and the affairs of the State. To undermine the authority of the State would be a very serious thing and therefore I do not agree with the amendment and oppose it.

**Mr. Chairman** (*The Honourable Mr. Abdul Hamid*) : The question is :

"That in Article 9 (2) of Part II, the words 'authority or' in line 4 be omitted."

The motion was negatived.



**Sardar Shaukat Hyat Khan** (Punjab : Muslim) : Sir, I beg to move :

"That after clause (2) of Article 9 of Part II, the following be added at the end :

'Provided that no restrictions or punishment will be imposed without a proper and open trial'."

This is an obvious amendment. We want to ensure that every citizen of Pakistan whenever he is to be detained or put behind the bars should be tried in a properly constituted court of law. During the last three years the habit of the British Imperialists of putting people behind the bars without trial has become so fashionable with their successors that it is essential that our future generations and children are safeguarded against the use of such laws indiscriminately by people who may be in power. Therefore, I have put forward that there should be no imposition of punishment without a proper trial by a court of law. I hope that people who are generally opposing our amendments will see to it that this amendment which is fair will not be thrown overboard.

**Mr. Chairman** (*The Honourable Mr. Abdul Hamid*) : Amendment moved :

"That after clause (2) of Article 9 of Part II, the following be added at the end :

'Provided that no restrictions or punishment will be imposed without a proper and open trial'."

**The Honourable Pirzada Abdus Sattar Abdur Rahman** : Sir, this point has already been disposed of by the House in connection with another amendment. It has been thoroughly argued and thrashed out before the House and it is not necessary to raise that point again.

With regard to the provisions of the law as to slander, sedition and other things, these are the offences under the Penal Code and for them a regular procedure of trial is already provided. Therefore, I do not think this amendment can be accepted. This House has already taken a decision on the major point and I oppose it.

**Mr. Chairman** (*The Honourable Mr. Abdul Hamid*) : The question is :

"That after clause (2) of Article 9 of Part II, the following be added at the end :

'Provided that no restrictions or punishment will be imposed without a proper and open trial'."

The motion was negatived.

**Mr. Chairman** (*The Honourable Mr. Abdul Hamid*) : The question is :

"That Article 9 of Part II be adopted."

The motion was adopted.

#### ARTICLE 10 OF PART II

**Sardar Shaukat Hyat Khan** : Sir, I move :

"That the proviso to Article 10 of Part II be omitted."

**Mr. Chairman** (*The Honourable Mr. Abdul Hamid*) : Amendment is :

"That the proviso to Article 10 of Part II be omitted."

The motion was negatived.

**Mr. Bhabesh Chandra Nandy** (East Bengal : General) : Sir, I move :

"That in Article 10 of Part II, after the word 'nature' at the end, the following words be added :

'associated with religious activities'."



[Mr. Bhabesh Chandra Nandy]

Sir, in order to make the sense of this clause more explicit and definite it is necessary to add the words I have suggested. This clause says that the freedom of functions and the profession of religion are allowed. Now, if the words I have suggested are not added to the proviso, the sense of this clause is not quite as explicit and definite as it should be. Therefore, I propose that these words be added to the proviso.

**Mr. Chairman** (*The Honourable Mr. Abdul Hamid*) : Amendment moved :

"That in Article 10 of Part II, after the word 'nature' at the end, the following words be added :

'associated with religious activities'."

**Shri Dharendra Nath Dutta** : Mr. Chairman, Sir, in supporting the amendment moved by my friend, Mr. Nandy, I want to say a few words. Evidently, the State shall have the power to make laws regulating and restricting any secular activities which may be associated with a religious practice.

Evidently this proviso means this. So it must be made clear and therefore I think the Government should accept the amendment of Mr. Nandy.

**The Honourable Pirzada Abdus Sattar Abdur Rahman** : Sir, I do not think it can be accepted and I do not see why they want to make it further clear. The object of this clause is to secure freedom of conscience in religious matters and I do not see any object why this amendment is moved when it refers to any activity of a secular nature. The object of the clause is to secure freedom in religious matters ; so there is no point at all in moving the amendment and I oppose it.

**Mr. Chairman** (*The Honourable Mr. Abdul Hamid*) : The question before the House is :

"That in Article 10 of Part II, after the word 'nature' at the end, the following words be added :

'associated with religious activities'."

The motion was negatived.

**Mr. Chairman** (*The Honourable Mr. Abdul Hamid*) : The question is :

"That Article 10 of Part II be adopted."

The motion was adopted.

#### ARTICLE 11. OF PART II

Article 11 of Part II was adopted.

#### ARTICLE 12 OF PART II

**Mr. Bhupendra Kumar Dutta** (East Bengal : General) : Sir, I beg to move :

"That in Article 12 of Part II, the words 'proved as being' in line 4, be omitted."

Sir, local customs vary in respect of religious observances and certain articles used in certain parts may not be in use elsewhere. It would be difficult to convince those who would not be convinced and the retention of this unnecessary clause would often prove an irksome interference with some people's religious rites. I therefore ask for the deletion of these words.

**Mr. Chairman** (*The Honourable Mr. Abdul Hamid*) : Amendment moved :

"That in Article 12 of Part II, the words 'proved as being' in line 4, be omitted."

**The Honourable Pirzada Abdus Sattar Abdur Rahman** : I thought the words used were making the Article more definite, which should be the purpose of the Constitution. If we leave it vague, how is it to be determined whether a particular article is required for religious purposes? If we omit these words we shall be leaving the whole thing vague and nobody will know what is the article required. Therefore it must be proved and the Article very clearly says that the articles are to be procured subject to regulations. There will be regulations made to determine whether an article is required for religious purposes or not. Therefore, the word "proved" is very necessary and without this the Article is redundant. You cannot leave the whole thing vague. I therefore oppose the amendment.

**Mr. Chairman** (*The Honourable Mr. Abdul Hamid*) : (To Mr. B. K. Dutta) : I think all the local requirements will be taken into consideration and therefore there is not much meaning in your pressing your amendment. Do you want to withdraw or to press it?

(Mr. B. K. Dutta indicated that he wished the amendment to be put to the House).

**Mr. Chairman** (*The Honourable Mr. Abdul Hamid*) : The question is :

"That in Article 12 of Part II, the words 'proved as being' in line 4, be omitted."

The motion was negatived.

**Mr. Chairman** (*The Honourable Mr. Abdul Hamid*) : The question is :

"That Article 12 of Part II be omitted."

The motion was adopted.

#### ARTICLES 13, 14 AND 15 OF PART II

Article 13 of Part II was adopted.

Article 14 of Part II was adopted.

**Shri Dharendra Nath Dutta** : Let this article be adopted.

**Mr. Chairman** (*The Honourable Mr. Abdul Hamid*) : I am sorry.

The question before the House is :

"That Article 15 of Part II be adopted."

**Mr. Chairman** (*The Honourable Mr. Abdul Hamid*) : Mr. Dharendra Nath Dutta.

**Shri Dharendra Nath Dutta** : Let this Article be adopted. My amendment is after Article 15 is adopted.

**The Honourable Mr. Liaquat Ali Khan** (East Bengal : Muslim) : Unless Article 15 is adopted how can he move?

**Shri Dharendra Nath Dutta** : I move, Sir :

"That the following be added as a new Article after Article 15 of Part II :

- '15 (i) The right to move the Federal Court by appropriate proceedings for the enforcement of the right conferred by this Part is guaranteed.

[Shri Dharendra Nath Dutta.]

- (ii) The Federal Court shall have power to issue directions or order or writs, including the writs in the nature of *Habeas Corpus*, *Mandamus*, *prohibition*, *quo warranto* and *certiorari* whichever may be appropriate, for the enforcement of any of the rights conferred by this Part.
- (iii) The Central Legislature may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Federal Courts under sub-para. (II) '."

**Mr. Chairman** (*The Honourable Mr. Abdul Hamid*) : Mr. Dutta, I think I should put Article 15. You propose to add a new Article.

**Shri Dharendra Nath Dutta** : That is what I was suggesting. Let it be put to the House first.

**The Honourable Mr. Nurul Amin** : Mr. Chairman was putting that Article when you intervened.

**Mr. Chairman** (*The Honourable Mr. Abdul Hamid*) : The question before the House is :

"That Article 15 of Part II be adopted."

The motion was adopted.

**Shri Dharendra Nath Dutta** : Sir, I beg to move :

"That the following be added as a new Article after Article 15 of Part II :

- ' 15 (i) The right to move the Federal Court by appropriate proceedings for the enforcement of the right conferred by this Part is guaranteed.
- (ii) The Federal Court shall have power to issue directions or order or writs, including the writs in the nature of *Habeas Corpus*, *Mandamus*, *prohibition*, *quo warranto* and *certiorari* whichever may be appropriate, for the enforcement of any of the rights conferred by this Part.
- (iii) The Central Legislature may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Federal Courts under sub-para. (II) '."

**Mr. Chairman** (*The Honourable Mr. Abdul Hamid*) : If you do not mind may I point out that the fundamental rights are enforceable by any court whether it is a High Court or any other court.

**Shri Dharendra Nath Dutta** : In order to make it clear I have mentioned the Federal Court.

**Mr. Chairman** (*The Honourable Mr. Abdul Hamid*) : Will it not restrict it to the Federal Court only ? That will be the effect of this amendment ; you read it please.

**Shri Dharendra Nath Dutta** : In order to make it clear that fundamental rights will be enforceable by the Federal Court and the Federal Court shall have power to enforce them I have put this amendment. I have also provided that not only the Federal Court shall have power but the Central Legislature may empower the High Court within the local limit or any other court in its jurisdiction to have power to enforce fundamental rights. Evidently I mean that the High Court of East Bengal, High Court of Lahore and High Court or Chief Court of Sind shall have the same power but the Central Legislature shall have to make necessary law empowering these courts to have this power. So, Sir, it is absolutely necessary to incorporate these provisions. With this object in view I have moved this amendment and I hope it would be accepted.



**Mr. Chairman** (*The Honourable Mr. Abdul Hamid*) : Amendment moved :

"That the following be added as a new Article after Article 15 of Part II :

- '15 (i) The right to move the Federal Court by appropriate proceedings for the enforcement of the right conferred by this Part is guaranteed.
- (ii) The Federal Court shall have power to issue directions or order or writs, including the writs in the nature of *Habeas Corpus*, *Mandamus*, *prohibition*, *quo warranto* and *certiorari* whichever may be appropriate, for the enforcement of any of the rights, conferred by this Part.
- (iii) The Central Legislature may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Federal Courts under sub-para. (II) '."

**Shri Kamini Kumar Dutta** (East Bengal : General) : Sir, I rise to support this amendment. It is an accepted principle all over the world that the fundamental rights are justiciable rights. At the same time it is also considered that the sections for the enforcement of the fundamental rights are of an essential character and it is ordinarily necessary that original jurisdiction for this purpose is given to the Supreme Court or the highest court of the land in order to make it quite clear that the rights which are created and incorporated in the constitution as fundamental rights are justiciable rights. There should be a clear enunciation of that principle in the constitution itself, first of all showing that they are justiciable rights and secondly as to which is the High Court which should be moved for the enforcement of these rights. As I have already said that it is the highest court which is given the original jurisdiction to adjudicate in this matter but at the same time the Legislature of the land is given the power to empower any other courts if the Legislature thinks it proper and that court also is not an ordinary court but the High Court of the land. So it is quite clear that clause (1) and clause (3) ought to be incorporated in the constitution itself. As to clause (2) that the High Courts shall have power to issue directions and orders in the nature of writs of habeas corpus, it may be said that there should be jurisdiction of High Court to exercise the power of *habeas corpus*, *mandamus*, *prohibition*, *quo warranto*, *certiorari* and that this may come for consideration when the Judiciary Committee might be considering the jurisdiction of High Court. Of course that is right as I am myself a member as well as the Honourable Minister who is now piloting the constitution. Although the Judiciary Committee's report is not yet ready and has not been accepted finally—as a matter of fact the sub-committee has thought that the High Courts should be given all these powers—but there is no harm in accepting clause (2) just now and incorporating it in the constitution. As to clause (3) it should be in the constitution ; that ought to be in the constitution itself. The amendment is to make these two points quite clear. First of all that the fundamental rights are justiciable rights and at the same time making it clear that the highest court of the land should have original jurisdiction to give relief in this respect and at the same time reserving the power to the Central Legislature to confer that power on any other court by making appropriate laws for that purpose. It is a very important matter because it must be made clear in the constitution itself that the fundamental rights are justiciable and enforceable in what court.

**Mr. Chairman** (*The Honourable Mr. Abdul Hamid*) : Will it not deprive the High Court from taking cognisance of that infringement.

**Shri Kamini Kumar Dutta** : I realize that the Supreme Court alone will be able to take cognisance of this matter but at the same time there is another clause that the Central Legislature may empower any other court.

**The Honourable Pirzada Abdus Sattar Abdur Rahman** (Sind : Muslim) : Sir, this point with regard to the Fundamental Rights being justiciable and enforceable in courts of law was disposed by the House the other day when an amendment\* was moved by Mr. B. K. Dutta. If I remember correctly my friend Mr. Kamini Kumar Dutta was also of the same view that existence of fundamental rights is justiciable straight-away so it is not necessary to declare that any fundamental right will be justiciable or not. With regard to the other two points these are matters to be provided in the constitution. Here, we are declaring in this as to what are the fundamental rights and whether the Federal Court should have jurisdiction or the High Court should have jurisdiction or other courts of law should have jurisdiction is a matter to be decided when the jurisdiction of these several courts is coming up before the Constituent Assembly and the Judicial Committee of the Basic Principles Committee was appointed to decide what the jurisdiction of several courts would be and therefore the appropriate place would be when that article about jurisdiction of various courts is being considered. So far as the matter stands at present it is very clear that the rights declared to be fundamental rights in this part of the constitution are justiciable and any court of law will enforce them. Therefore, by moving this amendment and by restricting it to the Federal Court in Clause 1 and to High Courts in Clause (2) and again giving power to Legislature in clause (3) in respect of other courts they are restricting the rights rather than clearing it. Therefore, I would submit that the amendment is inappropriate and out of place here for no such thing should be incorporated here as it would mean a restriction on the rights of various courts. I think this is inadvisable and the proper place is subsequently when that article is being discussed and when the report of the Judiciary Committee of the Basic Principles Committee is before the House. This amendment, therefore, is out of place here and I oppose it.

**Mr. Chairman** (*The Honourable Mr. Abdul Hamid*) : I am not very happy about this amendment. If you like, I can put it.

**Shri Dharendra Nath Dutta** : In view of your observation, I do not wish to press my amendment. I, therefore, beg leave of the House to withdraw it.

**Mr. Chairman** (*The Honourable Mr. Abdul Hamid*) : I hope the House has no objection to giving him leave to withdraw his amendment.

The proposed new article was, with the leave of the House, withdrawn.

\**Mr. Bhupendra Kumar Dutta* : "That in Article 3 of Part II, for the comma and words appearing after the word 'suspended', the following be substituted :

'Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the Constitution or law'."

The amendment was negatived, (*vide* C. A. P. Debates, dated the 4th October, 1950, Volume VIII, No. 2, pages 114-116.—*Ed. of Deb.*

ARTICLE 1 OF PART III

**Shri Dharendra Nath Dutta :** Sir, my next two amendments are allied. I, therefore, would like to move them together. The first is :

"That Article 1 of Part III, be transferred to Part II and be classified under 'Fundamental Rights'."

And the Second reads :

"That for Article 1 of Part III, the following be substituted :  
'Untouchability' in Hindu Society is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of 'Untouchability' shall be an offence punishable in accordance with law."

**Mr. Chairman** (*The Honourable Mr. Abdul Hamid*) : You see these two amendments stand on a different footing. First of all you move your first amendment and then we shall see about your second.

**Shri Dharendra Nath Dutta :** Sir, with your permission I want to move these two amendments together, because they are allied. In my first amendment I want that Article 1 of Part III be transferred to Part II—Fundamental Rights. That is the only amendment that I seek with regard to Article 1, Part III. The original wording of this Article is this :

"The motion of untouchability being inconsistent with human dignity, its practice is declared unlawful."

I want to transfer this Article to Part II in order to make it justiciable and I want to change the wording of that Article in this way :

"'Untouchability' in Hindu Society is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of 'Untouchability' shall be an offence punishable in accordance with law."

So, with your permission, Sir, I want to move these two amendments together.

**Mr. Chairman** (*The Honourable Mr. Abdul Hamid*) : If you want to move them together, there is no harm. But, I am afraid, the question of religion is also involved in it.

**Shri Dharendra Nath Dutta :** Sir, we feel very strongly over this matter. 'Untouchability' in the Hindu Society is one of the greatest evils in the world. We feel that this evil should be remedied and it should have been remedied long ago.

**Mr. Chairman** (*The Honourable Mr. Abdul Hamid*) : The House would like to know if 'Untouchability' has its root in religion.

**\*Shri Dharendra Nath Dutta :** Sir, it has got nothing to do with religion. It is a social evil which should be remedied as soon as possible. During the British Rule the foreigners did not try to remedy this social evil to any appreciable extent. Originally, they had no mind to remedy the evil customs and social evils. In fact, they did not want to. This is a social evil and we are making legislation for remedying the social evils. Such a legislation is necessary and after we have achieved independence, the first thing for us to do is to remedy untouchability in the Hindu Society. It is a great curse and I feel very strongly in the matter. It is one of the greatest curses of the world. The Hindu Society has been down-trodden on account of this evil. We look very small before the eyes of the whole world. So, Sir, this evil shall be remedied, but it has been placed under the Directive Principles of State Policy. I was just hearing the other day that directive principles are nothing,

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\* Speech not corrected by the Honourable Member.



because you know the directive principles are not enforceable by any Court. It is only laid down to determine the duty of the State to apply these principles in making law. So, Sir, there is a vast distinction between the Fundamental Rights and the Directive Principles. Untouchability in Hindu Society is inconsistent with human dignity. It is a great curse. It should be declared an offence and it should be declared as one of the greatest offences against the human society. Under these circumstances, I am surprised to see that 'untouchability' has been placed in Part III instead of declaring it as an offence under Fundamental Rights. I, therefore, hope that Government will see its way to accept this amendment of mine.

**Mr. Chairman** (*The Honourable Mr. Abdul Hamid*) : Amendment moved :

"That Article 1 of Part III, be transferred to Part II and be classified under 'Fundamental Rights'."

and

"That for Article 1 of Part III the following be substituted :

'Untouchability' in Hindu Society is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of 'Untouchability' shall be an offence punishable in accordance with law".

**\*Maulana Mohammad Akram Khan** (East Bengal : Muslim) : Mr. President, with regard to this Bill, I would like to say that this untouchability is no doubt an unqualified curse for humanity. But I want to know, as you said, the grounds on which this untouchability is being opposed whether it is a part of Hindu religion and whether it is advisable to interfere with it. If Hindu Society would be against the removal of untouchability it will find fault with Muslims and Pakistan for having interfered with their religion. It is, therefore, a point to be clarified. As far as I have studied the Hindu Scriptures, I can say with certainty that this untouchability forms a part of their religion. That is why in the Rig Veda, which is the foremost book of Hindu Society, a question has been raised towards the beginning as to how God or Brahma has created human beings. And in reply it has been stated that (1) Brahmins were created from the mouth of Brahma, (2) Khatris from Brahma's hands and (3) the low caste from Brahma's feet.

Subsequently all the books that have been written in Hindu Society from the age of the Rig Veda down to the latest times have dealt with this subject. I have not got the books with me, otherwise I would have quoted the very words to you, and proved that this untouchability is a part of Hindu religion. If our Hindu brethren and the Hindu Society want that this untouchability should be done away with, then they should not in future make any such allegations that Pakistan has interfered with their religion. In fact this untouchability is a part of their religion.

The other thing is that I could not understand untouchability as interpreted by Hindu Society. If our Hindu brethren really want to put an end to it, so much the better, because it is not consistent with the principles of humanity that this thing should have any place in human life. Untouchability in itself is a cursed thing, whether Hindus practise it among themselves or in relation to Muslims and Christians. It is bad in every respect. If Hindus approve of its removal, then it is to be seen whether untouchability as a whole as practised by Hindus among themselves and in relation to Muslims and Christians be regarded a crime. With these words, I want to ask the meaning of this term. So far as I have understood it, it is a bad thing and I oppose it.

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\* English translation of the Urdu speech.

**Shri Kamini Kumar Dutta** (East Bengal : General) : Sir, the matter to which this amendment relates is untouchability and I may call it a vice. But it concerns only the Hindus. This vice only prevails in the Hindu Society and I may say without any fear of contradiction so far as the demand of the present Hindu Society is concerned, it is unanimous that this must be penalised and must be abolished and the State should come to the aid of the people so that even if there may be a small minority who may still adhere to this notion of untouchability, they must be compelled by law to come to the right path. Indeed the clause is itself the highest condemnation of untouchability : It has been said : “The notion of untouchability being inconsistent with human dignity, its practice is declared unlawful.” It could not be condemned in a more bitter language than this that this practice was inconsistent with human dignity.

No doubt various leaders of the Hindu Society, including Mahatma Gandhi, tried their best to remove untouchability. To some extent their mission has borne fruit. An idea has been created in the country. But when a vice, once it gets root, does not leave the soil so easily. When there was a foreign rule, plea was made that they could not interfere with the social customs of a particular community. But that cannot hold water now. It is not a foreign rule. It is the rule of the people of the country and the people of the country must declare that this vice must no longer be tolerated in the land. The State must declare that it is abolished. If any index of the Hindu mind is to be ascertained, the Indian Constitution itself is the best proof of it. In India majority of the people are Hindus. In their constitution and in the Charter of Fundamental Rights it has been said that untouchability is abolished and its practice in any form is forbidden. The enforcement of any disparity arising out of untouchability shall be an offence punishable in accordance with law. That is the Indian constitution. That is the best proof of the fact what the Hindu idea is. After this we must say that the old excuse that the State must not interfere in the social manners and customs of the country, should not be allowed to prevail. Here the Hindus say unanimously and in one voice that it must be abolished and must be penalised. Our claim is a very legitimate one that instead of putting it in the category of “Directive Principles”, which are not enforceable in court, this should be transferred to the category of Fundamental Rights. It should be enforceable in a court of law. It will be proper and legal to enforce this fundamental principle by the help of law and legislation. So, Sir, I think in this respect the majority community should not entertain the least doubt in their mind that it is going against the wishes of the Hindus. It is a demand being made by the Hindus. I can say—and I must not be misunderstood—if an excuse be raised that the majority would not like to interfere in this matter, perhaps a large section of the Hindus will think that still our friends—the majority community—think that it would be better to keep the Hindus divided and to keep them apart. I will appeal to my friends of the majority community to raise the Hindus from that vice. If they raise the plea that they are not going to interfere with our customs, we shall think that there is a lurking desire to keep us apart, to keep us divided and to keep us apart from each other. I would say that this ought to be taken into the category of the Fundamental Rights and this is the demand from the Hindus of the country.

**The Honourable Mr. Nurul Amin** (East Bengal : Muslim) : Sir, I had no desire to participate in this discussion but for the fact that my

[The Honourable Mr. Nurul Amin]

honourable friend, Mr. Kamini Kumar Dutta, has brought in some political matters in this in order to shift the burden on the Muslims, that they were trying to divide their community.....

**Shri Kamini Kumar Dutta :** On a point of order, Sir. I never said that....

**The Honourable Mr. Nurul Amin :** He has appealed to the majority party to rise to the occasion and not try to divide the Hindu community between the Scheduled Castes or the down-trodden and the caste Hindus. I am surprised at this remark by one of the respectable members of the Hindu Society because they cannot prove before the world that it was anybody else other than their own religion,....

**Shri Kamini Kumar Dutta :** On a point of order ; Hindu religion does not say that...

**The Honourable Mr. Nurul Amin :** The exponents of their religion—the Brahmins—who have made the provision of untouchability and have divided the Hindu Society into various categories. Mr. Dutta has made a very strong appeal and a strong speech in this House, but I am afraid he will not have the same courage to go and address a public meeting.....

**Shri Kamini Kumar Dutta :** Certainly ; I will.

**The Honourable Mr. Nurul Amin :** If he could, he would not have come to suggest the insertion of this clause in the Fundamental Rights. By now the society would have removed untouchability by the force of unanimous opinion which is exhibited in this House, if that opinion had any influence outside this House. We are sitting here for the last three years and I am surprised to find that not a single piece of legislation to remove any particular aspect of untouchability has been piloted by the Honourable Members sitting on this side of the House.....

**Shri Dharendra Nath Dutta :** The first time I came I did it....

**The Honourable Mr. Nurul Amin :** There is not a single piece of legislation. We have seen that this untouchability has been included among the Fundamental Rights in the Indian constitution ; it has been declared unlawful ; it has been made punishable. But, with all those provisions, has untouchability in the Indian society—which is the source of untouchability—been removed ? No. Has any law been passed to remove barrier against inter-marriages, inter-dining and entry in temples ? Nothing has happened. Sir, I do not oppose the motion ; I welcome some of the suggestions in the motion. We, as Muslims, cannot think of untouchability not only amongst Muslims but amongst human beings professing any religion. This is a very pernicious social custom no doubt. And, if the Muslim society bears any sign of division in society, which is anti-Islamic, that has been borrowed from, and that is due to, the influence of the Hindus amongst whom the Muslims are living in this country for centuries. I would like to see the curse gone ; that the sooner

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this untouchability is removed, the better for all concerned and I am glad to see that my friends all of them—I do not know whether they are unanimous in this House ; they may be unanimous in this House because nobody will dare to say against it, but they will be never unanimous outside this House, I am sure about it—will try their utmost to remove the signs of untouchability amongst their families, amongst their own spheres, in their own districts and then try and come here and make propaganda like what has been done within the precincts of this House. This is nothing, but propaganda. I doubt the sincerity of these gentlemen and I have no hesitation to doubt it



because I do not find that they are moving their little finger to remove this untouchability in any other sphere than coming here and making strong speeches.

**Shri Dharendra Nath Dutta :** On a point of order, Sir. Is the honourable member entitled to cast aspersion on any other member ?

**The Honourable Mr. Nurul Amin :** I don't think I have used any unparliamentary language. I have not used ; if I had, the Chair would have taken notice of it.

**Shri Dharendra Nath Dutta :** He doubted our sincerity. Is that not unparliamentary ?

**Mr. Chairman** (*The Honourable Mr. Abdul Hamid*) : "Insincerity" is not an unparliamentary word.

**Shri Dharendra Nath Dutta :** We strongly object to it.

**The Honourable Mr. Nurul Amin :** So, Sir, what I would suggest is this that the provision of some of the suggestions is already incorporated in the Directive Principles which has been made unlawful, which has been made punishable ; everything is there and if one works up this directive principle and brings in legislation to remove the untouchability from their society—from the Hindu Society—that is enough. What I want is this that they should try their utmost sincerely and honestly to remove the blot without legislation, because this is a social evil which can be removed by propaganda, by practise, by own examples and I hope that the speakers will show their own examples by encouraging inter-marriages, inter-dinings, and other things. Why amongst the Hindu Society alone ? Let them remove it from amongst the whole society of the world, let them dine with Muslims, let them dine with Christians, let them not treat human-beings as dogs. They are treating human-beings as dogs. If any Adibasi enters their kitchen or their house, Sir, the kitchen, the whole house is polluted. Sir, all the utensils have got to be thrown away. Well, not to speak of a member of the scheduled caste, but any other human-being of another society enjoying the highest position in the society, if he enters their house, the whole house is polluted. Even if the shadow of an *achut* has touched them, they have got to take their *ashnan* in the waters of the river Ganges. So, I would like that they should join hands with us because we are against this untouchability. We are against creating these barriers between human-beings and human-beings and we want their co-operation, whole-hearted co-operation in this. We do not want to keep any division for any purpose, political, economic, or any other, amongst the society—amongst the Hindu Society—not only amongst them, but between the Hindu and Muslim Society. Let them come within the society of the majority of the people. They are always welcome and there is no harm to association. We are against these barriers. So, I accept the principle underlying in the amendment, but I only request them to be true to their words uttered in the House.

**Mian Muhammad Iftikharuddin** (Punjab : Muslim) : Mr. Chairman, Sir, I think this little unpleasantness in the House was altogether unnecessary and is based on a misunderstanding. So far as the principles embodied in this report are concerned, as is well known, I differ with them most strongly and have tried to oppose some of them, which are inhuman, unjust, vehemently. But, I must say that the framers of this Fundamental Report very wisely put this in where they have done. Sir, it was in the fitness of things that the majority being of Muslims, so far as this

[Mian Muhammad Iftikharuddin]

Committee was concerned, they should have been very careful in touching upon any matter that in any way was considered by the minority community to be religious. They could not come out categorically and say that untouchability will be altogether disallowed or will not be tolerated. The reason being very simple that in the world in general and amongst the Muslims in particular, the conception of untouchability does not exist. That is how it should have been put and this was the best way to draw the attention of the people of Pakistan that this evil should be get rid of as soon as we can. On the other hand, it was in the fitness of things that our friends from the opposite should have brought an amendment to it and I think it has not been appreciated and I am sorry that the Premier from the East Bengal under whose patronage a large number of Hindu citizens live, warmed himself unnecessarily being unmindful of their position. It was in the fitness of things that we should have put this question as a directive and it was in the fitness of things that Hindus themselves should have brought this up before us and assured us that it was a matter of religion and that you may treat it as a general question and treat it as harshly as any other evil that may exist in our society and we should appreciate that in their amendments that have been moved, they have said untouchability in Hindu Society is abolished. They themselves are modest enough to say that it is confined to them. So, if you ever incorporate it in accordance with their suggestions in the fundamental rights, they do not let the world to understand that the Muslims had this evil amongst them. They have said Hindu Society. They could not be more modest, they could not be more right in drafting this amendment. I think, Sir, therefore,—of course the majority of the Muslims who were in this Committee, they have the right to put where they like—the Hindus who have brought this amendment, they are perfectly right. Now, what is to be done? I think, Sir, there is a convention in very many Parliaments of the world that when a particular question concerns a particular religion or a particular area, the members of that area who are not connected with that religion or with that sect or who do not live in that area, refrain from voting. I think, let our Hindu brethren vote on this amendment and if they unanimously tell us that they do not object to this—even though it is a part of Hindu Society—I am not talking of religion—if they do not object to it, and are treating it as strongly as we would like to treat it, well, I do not think we should have any objection to it and we should feel pleased that our Hindu brethren feel about it in the same strong way as ourselves. I, therefore, suggest that this may be put to vote and we, the Muslims, should refrain from voting. If the voting of the non-Muslim members is unanimous, we should accept the suggestion.

**Mr. Bhabesh Chandra Nandy :** Mr. Chairman, Sir, I rise to support the amendment moved by my Honourable friend Mr. Dharendra Nath Dutta. I would like to say a few words in connection with what the Maulana Sahib has said. He has quoted from the Hindu scripture and tried to show that this caste system is based on the Hindu religion. I say definitely to him that he is mistaken in that idea. It is not based on religion. If he goes through the social history of any nation, he will find that in olden days there was no such thing as police or penal code and anything that was done was done in the name of religion. So, every social practice had the stamp of religion on that. By that he could not mean that it was part of the religion of that race or people. If we study social anthropology and if

we go into the history of any race of the world, the truth of my statement can be established. Similarly, this caste system and this untouchability was the result of certain social customs which were prevalent at that time. It might be that the author of these social customs at that time were also interested in pushing up their case and therefore they tried to place the religious stamp or the religious sanction on it or tried to put some religious taboo on the other. But by that we should not conclude that it was part of religion. Besides this, I wish to point out to Maulana Sahib that he is not right when he says that the religious view was that castes originated from the different parts of the body of Brahma, some from his mouth and some from his leg. The idea behind all this was of an organic conception of the society. It was not the intention to put any sense of superiority or inferiority. Maulana Sahib cannot show from scriptures or from the social history of the Hindus that these things had ever been regarded as part of our religion. Apart from this, the caste system was not the same as untouchability. Untouchability is a social curse. Those who have gone through the social history and the religious history of the Hindus must be knowing definitely that when this caste system was introduced, there was nothing like untouchability. The caste system was based on the type of work that the people used to do. Some of the Brahmins might be regarded as non-Brahmins and *vice versa* according to the work they did and the profession they followed. So, it is wrong to say that this caste system or untouchability had anything to do with religion. This is what I wanted to say in reply to what the Maulana Sahib has said and I am sure all my friends here will confirm it. Maulana Sahib also suggested that there should be no intervention in the matter of untouchability by means of legislation because the members of the majority community might be accused that they were interfering with the Hindu religion. I will at once tell him that he should disabuse his mind from such an idea because untouchability is not a part of our religion. It has nothing to do with the Hindu religion. There are certain bad features and certain social abuses in each and every society and this caste system of ours is also one of those abuses. Now, it is a fact that this is a bad practice and it is a curse, but it has nothing to do with religion. So, if you remove this curse by means of legislation, there cannot be any aspersion on anybody.

As to the remarks made by the Chief Minister of Bengal, I could only read some sermons, some aspersions and some insinuations in them. My friend, Mr. Kamini Kumar Dutta, has never said that the majority community are trying or have ever tried to put a wedge through the Hindu community by dividing them into different castes. He has put a wrong meaning on what my friend Mr. Kamini Kumar Dutta has said and I think that is not fair to him. I would like to say definitely that this was never the intention of Kamini Kumar Dutta or any of our friends. Finally, I would like to say that the amendment moved by my friend Mr. Dharendra Nath Dutta is not only very much necessary but it is one of those healthy suggestions that must be incorporated in our legislation. So, I not only support it but earnestly hope that all the other Members will whole-heartedly support it and get it passed.

**Mr. Akshay Kumar Das** (East Bengal : General) : Sir, I am not ashamed to bring it to the notice of the House that in Pakistan the members of the scheduled caste are now in a majority and it is a pity that this majority should be stigmatized as 'untouchables' by a handful number of persons of higher class caste-Hindus. I know the reason why



[Mr. Akshay Kumar Das]

the Honourable Prime Minister of East Bengal has doubted the sincerity of some of the opposition caste-Hindu members. To some extent I think he is right because this untouchability was created by these Chakravarties, Chatterjees and Mukherjees, most of whom have crossed the border. While these people are not coming forward to support the amendment of Mr. Dharendra Nath Dutta, it is quite natural to doubt their sincerity. I would like to point out, Sir, that, though the directive policy does give some relief, it does not give full relief. I would have had no objection to it if it was declared both unlawful and punishable. If you add the word 'unlawful' before the word 'punishable', it will be all right. Again, Sir, we want it to be put under "Fundamental Rights" because the Fundamental Rights are justiciable. Suppose one breaks the head of a Caste Hindu; because he calls him untouchable, the court will not give him relief when he sets up the defence of untouchability because it has not been declared as unlawful and punishable offence. Therefore, though it may have a very salutary effect, as a directive policy but as a matter of fact it will not be effective. So I support this amendment of Mr. Dharendra Nath Dutta for the acceptance of this House, not because we are now known as "Untouchables" but because we want peace and tranquillity in Pakistan. There will always be some sort of disturbances amongst Hindus and, the peace in Hindu Society will be disturbed. There will always be disturbances because these people are in the majority. If they are in any way looked down upon, they will surely try to retaliate. So, I would ask and request the House to accept his amendment. Now, the days of untouchability are gone. We do not mind it now. If I am called an "Untouchable" by anybody I do not mind it at all, but still the stigma is there, which to some extent injures or wounds one's feelings. On that account we want that this Article should be transferred to Part II.

With these words I support this motion.

Sir, I had no intention to take part in a discussion on so delicate a subject but it has touched my feelings and also my prestige. Human-beings have got a sense of prestige and self-respect. If anybody calls me an "Untouchable" it may hurt my feelings, though I may not mind it much. If I do not get any justice I should also feel a sort of disappointment.

Sir, I support this motion but at the same time I also bring to the notice of the House that there are Caste Hindus who are not touchables. Among the Caste Hindus there are some communities which are not touchables. They have got certain communities like that. Now why are they kept in the category of Caste Hindus? Because those people are intelligent enough to exploit their numerical strength; so they want them to be within the category of Caste Hindus. There are also other lower class Caste Hindus who are inhabiting Pakistan, but the higher class Caste Hindus—most of them—have crossed the border.

We want to live like brothers; so I support this amendment for the acceptance of the House.

**Moulavi Ebrahim Khan** (East Bengal : Muslim) : Sir, my sympathy is entirely with my Hindu brethren of this House and my judgment is entirely with the framers of the Fundamental Rights. I think it is useless at this stage to go into the question whether caste restrictions are a part and parcel of the Hindu religion or not. It is now almost universally admitted, even by the leaders of the Hindu community itself, that caste

distinction has done untold harm to their own society and it is admitted by all that caste distinction is one of the greatest curses that humanity has ever been afflicted with. The question, therefore, is how to save humanity from the clutches of this evil. So far as the Hindu community is concerned, if we look to the past, we find that the great Vidyasagar made a noble effort to reform a certain section of the community and he succeeded but only to a certain limit. Then other reformers appeared and did their best. Gradually, the caste system may disappear but the time has not yet come when a State—especially a State of which the Muslims form a preponderating majority—can enforce the extinction of caste distinction by legislation. Even the great Mahatma failed to achieve that measure of success which he desired and deserved and which people expected he would achieve. I believe, therefore, that the framers of the Fundamental Rights have been quite right in giving a lead. It will be the very risky experiment to go into legislation depending on a small number of members, who may not be thought to adequately represent their society..... (Interruption.) My judgement is this that as the lead has been given by the members themselves—they have very justly proposed an amendment—let them go into their own society, mobilize public opinion among themselves and make some advance and then the legislators of this House will be most glad to render them such help as may be justly extended to them without inviting any blame on themselves for interfering with the neighbours' religion. I am, therefore, in perfect sympathy with them and I can assure them from the side of the Muslims that no religion in the world is more against caste distinctions, more averse to any distinctions between man and man, than Islam, and the Muslims will be very glad to help as far as possible.

**Mr. Nur Ahmed (East Bengal : Muslim) :** Without committing myself either way, I want to make a few observations on the amendment now under consideration, Sir.

**Mr. Chairman (The Honourable Mr. Abdul Hamid) :** Mr. Nur Ahmed, then what is the use of your making a speech? You do not want to commit yourself either way; then why make a speech?

**Mr. Nur Ahmed :** I have got certain observations and I think I am entitled to make those observations. As a Member, I have to make some observations. Sir, I can assure the Honourable mover of this amendment that every Member of the majority community, every Muslim, considers this untouchability as a bane on the human society, and is ready to co-operate and help in every possible way to remove untouchability from the Hindu society. Islam came to the world to do away with the distinctions between man and man, whether social, economic or racial. It is an established fact that in the mosque while praying every Muslim, every day and five times a day has to stand side by side with his brethren, be they low or high. There is in Islam equality of man before God and there is no distinction between an ordinary man before God and a high ranking person before Him. Then there is equality of man and man amongst Muslims themselves. There is no distinction between a porter and a king. In the Muslim mosque there is no distinction between the king emperor and also the smallest man and in the *Arafat Maidan* where all the Muslims assemble for performance of *Haj* and assemble together, no one will distinguish between one man and the other whether he is a poor labourer or a king, as all are similarly dressed. We Muslims of Pakistan have established this State to be run on Islamic

[Mr. Nur Ahmed.]

principles and we have already declared in this House in our Objectives Resolution that there will be equality—equal social justice and equality in all respects. Now the only question is whether this article should be in the fundamental rights or should be in the directive principles. I find that it has been placed under the Fundamental Rights in the constitution in the case of India and here it has been put under the directive principles. This is a question which I consider from the point of view of humanity. I do not want to make it a controversial issue. Sir, a question has been raised that if it is in the fundamental rights then it will be enforceable by the courts and therefore it may be used against the Government of the day which is run by the majority who are not Hindus. But I, as a Muslim, would welcome if this untouchability is removed from the society altogether. I do not go into the question whether this untouchability is a part of Hindu religion or not : I leave it to the Hindus to decide whether this should remain a part of their religion or not or should be removed. But I shall be too glad to see if this stigma is removed from all societies in Pakistan. I am here to declare in unequivocal terms that every citizen of Pakistan should be equal in every respect in their rights and privileges. But I think that even if the Government accepts the amendment there will be no difference between the previous and latter position. India has declared it punishable offence. We here abhor untouchability and if the Hindu members of minority community want to support this resolution then I think this article should be placed in the fundamental rights and this should be done in order to show that Islam too abhors untouchability. It is only a question of placing it either in the fundamental rights or the directive principles of the state policy. I think it is a very important question and requires to be seriously considered. No one should try to make it a political question ; it is a question of humanity.

**Mr. Birat Chandra Mandal** (East Bengal : General) : Sir, I had no intention to say anything today but as I thought that Mr. D. N. Dutta's amendment was a very simple one it would not be necessary for this House to discuss it for a long time and the debate on this subject would be very simple. I want to participate in the debate because I am one of the members belonging to the community which is so much talked about just now. I had the opportunity of working with great Muslim leaders of Bengal like Sir Abdur Rahim, Mr. Fazlul Haq, Sir Abdul Karim Ghaznavi, Sir Nazimuddin and Mr. Shahid Suhrawardy. So I have found that all these big Muslim leaders have very good ideas about the Scheduled castes or the so-called untouchables. So in the Muslim society we did not find any shadow of untouchability. Even in the Christian society we do not find any semblance of untouchability. Therefore the question of untouchability does not necessarily refer to Muslims and Christians. It refers only to Hindu society. The Hindu society of antiquity had no such thing as untouchability. Even the big leaders of Hindu society of antiquity like Narad, Vyash, and Bidur were not born of Brahmin mothers. They were born of mothers who were maid servants and girls of the fishermen community. But there was no such thing as untouchability. At that time in the beginning of the Hindu society it is certain—and I am sure that no Vedas and no Brahmins can prove that this was not so—that is untouchability did not exist at that time. But subsequently a gang of self-seekers became very powerful in the society. They introduced this devilish thing known as untouchability in Hindu society. So, Mr. Dutta's amendment is very

simple. I say that it should be accepted by one and all. No Chattopadhyaya or Chakraverty will oppose it. Those days of Chakraverties and Chattopadhyayas are gone. These are days of democracy. No one dare utter a single word against it. So I appeal to you, Sir, and through you to all the Members that all are unanimous on this subject and therefore the amendment of Mr. Dutta should be accepted.

**The Honourable Mr. Liaquat Ali Khan :** I am sorry to say that unnecessary heat has been imported into the discussion over this matter. The question of 'untouchability' is a simple one, but at the same time it is a complicated one. It cannot be denied by my friends on the other side that there were and there still are some Hindus who regard 'untouchability' as a part of religion. They may be misguided. Therefore, naturally, it was not for the Committee which consisted of a majority of non-Hindus to go beyond what they have stated in the Report. Not only that, Sir. There were on this Committee three Honourable Members belonging to the Hindu community and none of them thought it necessary to write any note of dissent on this particular proposal. As far as we are concerned, we agree that 'untouchability' is something abhorring to human dignity and we would be only too anxious to do anything which is possible to remove the stigma—I hope my friends would not misunderstand me—from the Hindu society.

**Shri Dharendra Nath Dutta :** Certainly, not.

**The Honourable Mr. Liaquat Ali Khan :** But, at the same time, we do not want to be accused of having done something which may be interpreted by a section of Hindus as being interference in their religious practices and, therefore, Sir, as I said the Committee have stated that the notion of 'untouchability' being inconsistent with human dignity, its practice is declared unlawful. It can be stated that this is not enough, we should go further than this if we really want to abolish this inhuman practice in a particular section of the community in Pakistan. As has been pointed out, if that is the unanimous opinion of the Hindu members of this House that something more than this should be incorporated in the Fundamental Rights, I am sure that every one of us would be only too happy to do so. But the responsibility they alone must take, not we—not that because we are afraid of taking responsibility, but because we are afraid of being accused of something for which we are not responsible. Sir, if the House would permit me to move an amendment to the amendment which is for discussion before the House, I think that would meet the requirement of the situation. I would suggest, Sir, that the Directive Principle may be included in the Fundamental Rights. I have no objection to that, but at the end of this paragraph the fullstop should be deleted and the following should be added :

“And any disability arising out of untouchability shall be an offence punishable in accordance with law.”

Therefore, the paragraph, as amended, would read :

“The notion of untouchability being inconsistent with human dignity, its practice is declared unlawful and any disability arising out of untouchability shall be an offence punishable in accordance with law.”

**Shri Dharendra Nath Dutta :** And it should be transferred to Part II.

**The Honourable Mr. Liaquat Ali Khan :** Yes. I want to point out to the Honourable Members why I make this amendment because I think it is quite consistent with what is stated here. It does not bring in anything else which might create some misunderstanding in certain quarters.

I know that my honourable friends are very vocal in this House, but they may not be so vocal outside.

**Shri Dharendra Nath Dutta :** You are mistaken.

**The Honourable Mr. Liaquat Ali Khan :** I am afraid my friend has not understood me correctly. I said 'vocal outside' in the sense that some people may take it in the light that the Constituent Assembly has interfered with Hindu religion and so on and so forth. Therefore, I want to avoid that, at the same time I want to achieve the purpose which you have in view. So if this is acceptable, then I would request the House to accept this amendment. The Article may be amended accordingly and incorporated in Part II of Fundamental Rights.

**Prof. Raj Kumar Chakraverty :** Sir, on a point of personal explanation.

**Mr. Chairman** (*The Honourable Mr. Abdul Hamid*) : Let me first of all put this amendment. If the House agrees, the amendment may be taken as put.

**Prof. Raj Kumar Chakraverty :** I have no objection to the amendment.

**Mr. Chairman** (*The Honourable Mr. Abdul Hamid*) : I think the House has no objection to the amendment being moved.

(*Voices : No*).

**Mr. Chairman** (*The Honourable Mr. Abdul Hamid*) : Then it is moved.

**Prof. Raj Kumar Chakraverty :** Sir, the reference has been made that no member of the Sub-Committee had given any note of dissent. So far as we are concerned, Mr. Mandal and myself, being Members of this Sub-Committee wanted to make this clause justiciable before the Sub-Committee and Sir Muhammad Zafrulla Khan was presiding over the meeting. He pointed out that mere abstract term like 'untouchability' cannot be penalised. There must be something concrete. Unless something is concretized, it cannot be punished. So he said : "Let it remain as it is and it would be the endeavour of the State to bring in legislation to check untouchability and penalise it." Sir, Sir Muhammad Zafrulla Khan is an eminent lawyer. The committee listed to his advice. It is not fair to raise an objection like this, especially when we pressed that this matter should be included in the justiciable rights and it was not done, but it was put somewhere else.

**Mr. Chairman** (*The Honourable Mr. Abdul Hamid*) : The wording is very unhappy : "'Untouchability' in Hindu society is abolished...." Here you are not legislating for abolishing untouchability. I think you should withdraw your amendment.

**Shri Dharendra Nath Dutta :** I am ready to do so.

**Mr. Chairman** (*The Honourable Mr. Abdul Hamid*) : I think the Honourable Member has the leave of the House to withdraw his amendment.

The amendment was, with the leave of the House, withdrawn.

**The Honourable Khan Sardar Bahadur Khan** (N.-W. F. P. : Muslim) : Sir, the amendment moved by the Prime Minister should be put to the House. It has not been informally moved by the Chair.



**Mr. Chairman** (*The Honourable Mr. Abdul Hamid*) : The question is :

"That after Article 15, in Part II, the following may be added as a new Article :

'The notion of untouchability being inconsistent with human dignity, its practice is declared unlawful and shall be an offence punishable in accordance with law'."

The motion was adopted.

**Mr. Chairman** (*The Honourable Mr. Abdul Hamid*) : This Part III, Article I, should not be put. We have got something else.

**Mr. Bhupendra Kumar Dutta** : Sir, I beg to move :

"That in Part III, the following be added as Article I :

- '1 (1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
- (2) The right to private property should be restricted in so far as it tends to obstruct the provision for every citizen of Pakistan of work, employment and standard of living as defined under Article 25 (1) of the Universal Declaration of Human Rights by the United Nations Organisation'."

Sir, in the modern world controls of different forms are increasingly in use by the State. The necessity for them arises out of the basic fact that production is getting more and more efficient and centralised. That tends to throw vast number of people out of work. The State as guardian of the society, cannot deny its responsibility to provide work to the unemployed. To deny this is to deny a citizen his first right to live. The U.N.O. recognises this and, therefore, makes the provision sought to be introduced into our Constitution by this amendment. I therefore urge its acceptance. The second paragraph follows as a corollary and opens up opportunity to the State to fulfil the obligations laid on it by the first paragraph.

**Mr. Chairman** (*The Honourable Mr. Abdul Hamid*) : Amendment moved :

"That in Part III, the following be added as Article I :

- '1 (1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
- (2) The right to private property should be restricted in so far as it tends to obstruct the provision for every citizen of Pakistan of work, employment and standard of living as defined under Article 25 (1) of the Universal Declaration of Human Rights by the United Nations Organisation'."

**Mr. Chairman** (*The Honourable Mr. Abdul Hamid*) : Sardar Shaukat Hyat Khan ! You will speak after prayers. The House stands adjourned till 7.15 P.M.

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The Constituent Assembly reassembled at Fifteen Minutes Past Seven of the Clock in the Evening, Mr. Chairman (*The Honourable Mr. Abdul Hamid*) in the Chair.

INTERIM REPORT OF THE COMMITTEE ON FUNDAMENTAL RIGHTS AND ON MATTERS RELATING TO MINORITIES—  
(continued)

**\*Sardar Shaukat Hyat Khan :** Sir, as regards this amendment that has been moved I think and I hope that besides all other arguments there are two things in view of which the members of our Government may perhaps not oppose it. On one side is the promise of Nawabzada Liaquat Ali Khan to the poor and the alluring description of the blessings to be showered upon them which always present in all his speeches made by him before them. And the other thing is this that the other part of this amendment has already been passed by U. N. O. which is a great favourite of Nawabzada's party. So even, if there be no other reasons that may appeal to them, on account of their own previous promises and in fidelity to U. N. O., our friends who have always opposed every proposal from us, may, perhaps, support this amendment, because there is nothing in this that may hurt their feelings. The first part of this amendment lays down that every one has a right to work.

Sir, when Pakistan was being built, when people were being arrested, thrown into prison and put to all sorts of trouble and hardships, the most effective weapon in our hands for bringing round the people to our point of view was this high-sounding promise that Pakistan would be a State wherein every person will enjoy prosperity, all will have equal rights and every one will have the opportunity to lead a comfortable and prosperous life. To-day, by the grace of God, Pakistan is an accomplished fact. Now we have to see whether the promises, which we had made to the common people, i.e., the poor, the labourers, the volunteers and the workers, are being fulfilled or not, or whether the members of the Muslim League are playing the same old game of false promises with them and are bent on working out their ruination.

To-day, Sir, in the name of those same promises and mandates I call upon you that instead of rejecting this amendment you should accept it as a part of Fundamental Rights so that every Pakistani may, thus, acquire a right to get employment and the State of Pakistan may be bound to provide employment for the poor, the unemployed and the labourers, and to insure against un-employment—not against this that big concerns do not employ them in their factories or firms or big landlords do not let them work on their lands. But your Government would look after them and ensure employment for them so that they may earn a decent livelihood and live like human beings, a right which had been denied to them during British Imperialism. If these fundamental principles which are the primary rights of a human being are not accepted by the Government of Pakistan and it keeps the public deprived of their rights then what is the use of Pakistan? If this right is not conceded, Pakistan would never fulfil its promises. So if Pakistan is the real Pakistan and it belongs to the common people and if it is really a new state of the world, sovereign and independent, then this House will have to lay down in perpetuity that we will have to provide the means of livelihood to every poor man who has no means to keep his body and soul together. The labourer who has no employment will have to be provided with employment, otherwise this State cannot survive.

The other part of this amendment relates to private properties. The right to private property should be restricted so far as it tends to obstruct the provisions for every citizen of Pakistan to work. A more reasonable and right proposal than this can not be conceived that we

do not allow a rich man to be richer or rather, allow anyone to be a rich man whether he be an Ispahani, a big seth or anyone of our Government's favourities. We would not allow them to accumulate wealth and to sit on soft and tender cushions while our poor people may wander about in distress, on the roads during the day and passing nights on foot-paths.

Sir, we do not want to produce a class of unemployed people in this State. On the other hand we want to usher in an era of contentment and comfort here. This is not to be allowed that only a few business-men who have gained favours of our Ministers should become more wealthy and our common people—the labourers, peons, workmen, black-smiths and farmers or small Zamindars—should starve for want of bread while the favourities of Government may accumulate more riches. So we should not concede the right of private property to anybody unless and until we are satisfied that every inhabitant of Pakistan has achieved prosperity, *i.e.*, adequate arrangement has been made for his childrens' education, he is healthy and medical aid has been provided for him. Until we do not restore these rights to the public, we cannot be said to be independent in the real sense ; but we are rather slave of those few powerful persons who dominate over the people. If these poor and oppressed people were kept from these rights in the way as is being done at present, then the cries of these distressed and poor people will surely cause your downfall ; and the Assembly that does not protect the rights of the poor, does not stick to its previous promises and renders no help to the working people of the world, does not deserve to exist, and my friends who have been so far opposing every amendment and who do not rightly protect the rights of the poor and common people, will not be seen here in a short time. Every justice-loving person will welcome this amendment because it is sound and in accordance with the idea of Pakistan and must therefore be accepted.

[At this stage Mr. President (The Honourable Mr. Tamizuddin Khan) resumed the Chair.]

**The Honourable Pirzada Abdus Sattar Abdur Rahman :** Sir, with regard to this amendment which is in two parts, I might submit that the principles embodied in part (1) are generally included in the right about which we have taken decision and the details which it is sought to provide in this amendment could best form a subject-matter for legislation by various Governments which might come in power from time to time and who might have their own programme. When we are in the Legislature, then, I think, the Honourable Member could very easily raise this question because this can very easily form a programme of a particular party as to what its functions should be and what should be legislated. There is hardly a place in the constitution to place all these things. So far as general rights and the basic fundamental rights are concerned, they have already been provided in the decisions that we have so far taken.

**\*Sardar Shaukat Hyat Khan :** Sir, nobody is even allowed to raise a single question. The condition of the people is such that they have no bread to live upon.

**The Honourable Pirzada Abdus Sattar Abdur Rahman :** So far as part (2) is concerned, I might point out that we have already taken a decision under Article 8 of the Fundamental Rights, which says :

“(1) No person shall be deprived of his property except in accordance with law.

(2) No property shall be requisitioned or acquired for public purposes under any law authorising such requisition or acquisition unless the law provides for adequate compensation.”

Now, the second part of the amendment, as it stands, is contrary to the decision that we have already taken. The right to private property should be restricted in so far as it tends to obstruct the provision for every citizen of Pakistan. In other words, the private property may be taken away for these purposes without compensation. This is contrary to the decision that we have already taken and therefore it cannot be accepted. I, therefore, oppose both the parts of the amendment.

**Mr. President :** The question is :

“That after Article 1 of Part III, the following be added as new Article 1 :—

- ‘(1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
- (2) The right to private property should be restricted in so far as it tends to obstruct the provision for every citizen of Pakistan of work, employment and standard of living as defined under Article 25 (1) of the Universal Declaration of Human Rights by the United Nations Organisation’.”

The motion was negatived.

**Shri Dharendra Nath Dutta :** Sir, I move :

“That the following new Articles be added at the end of Part III :

- ‘(1) The State shall provide, within a period of ten years from the commencement of this constitution for free and compulsory primary education for all children above the age of five until they complete the age of fourteen years.
- (2) The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.
- (3) The State shall direct its policy towards securing to each citizen—
  - (i) The right to work, the right to an adequate means of livelihood ;
  - (ii) the right to maintenance in old age and during sickness or loss of capacity to work ;
  - (iii) the right to rest or leisure.
- (4) The State shall make provision for securing just and human conditions of work and for maternity relief.
- (5) The State shall take steps to separate the Judiciary from Executive in the public services of the State.
- (6) The provision contained in this chapter are intended for the general guidance of the State. The application of these principles in legislation and administration shall be the duty of the State but shall not be enforceable in any Court of Law’.”

Mr. President, there are as many as six Articles in this amendment which are intended to be introduced under the heading 'Directive Principles of State Policy'. Part (6) defines as to what is meant by the Directive Principles of State Policy. It says :

"The provisions contained in this chapter are intended for the general guidance of the State. The application of these principles in legislation and administration shall be the duty of the State but shall not be enforceable in any Court of Law."

If you look at the accepted directive principles of the democratic countries of the world, you will find that there is a provision for free and compulsory education in the primary stage for all children up to the age of eight years. It should be more so in Pakistan because, as you know, there is a great illiteracy throughout the whole of Pakistan and it is the primary duty of the State to remove it. It is clear that under the Directive Principles of the State Policy, that has not been mentioned.

**Begum Jahan Ara Shah Nawaz** (Punjab : Muslim) : May I ask the Honourable Member if any country has passed an Objectives Resolution such as we have passed as preamble of any Constitution ?

**\*Shri Dharendra Nath Dutta** : Such directives as are contained in our Objectives Resolution have been mentioned in the preamble of the constitution of many countries and the duty of the State has been laid down in the constitutions themselves. It seems to me that Begum Shah Nawaz is under a misapprehension. In every constitution there is some reference to justice and some reference also with regard to the duty of the State. I am quite sure it will be agreed by all of us that so far as article (1) of my amendment is concerned there shall be no objection that it shall be the duty of the State to provide for free and compulsory education. I know the difficulties of Pakistan and therefore I have provided that within a period of 10 years there should be a provision for free and compulsory education.

Then, Sir with regard to article (2) which is sought to be introduced by me, there cannot be any doubt that, if we are to look after the educational and economic interests of the weaker classes, namely, the scheduled castes and scheduled tribes, it should be the duty of the State to provide work and that unemployment should be removed. Every citizen should have a right for the means of livelihood especially in a poor country like Pakistan.

Then, Sir, it should be the duty of the State that people in old age and people in sickness should be maintained. It should also be the duty of the State to make provision for securing just and human conditions of work and for maternity relief. Children under a certain age should not be employed and during the maternity there should be maternity relief. These are the primary duties of the State and the State should be aware of them.

Then the State shall take steps to separate the Judiciary from Executive in the public services. There cannot be any doubt that there should be separation of the Judiciary from the Executive.

These are well-known principles which have been accepted everywhere and therefore I hope there cannot be any objection to those principles and that therefore the House shall see its way to accept these amendments of mine.

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\* Speech not corrected by the Honourable Member.



With these few words, I commend this motion for the acceptance of the House.

**Mr. President :** Amendment moved :

"That the following new Articles be added at the end of Part III :

- (1) The State shall provide, within a period of ten years from the commencement of this constitution for free and compulsory primary education for all children above the age of five until they complete the age of fourteen years.
- (2) The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.
- (3) The State shall direct its policy towards securing to each citizen—
  - (i) the right to work, the right to an adequate means of livelihood ;
  - (ii) the right to maintenance in old age and during sickness or loss of capacity to work ;
  - (iii) the right to rest or leisure.
- (4) The State shall make provision for securing just and human conditions of work and for maternity relief.
- (5) The State shall take steps to separate the Judiciary from Executive in the public services of the State.
- (6) The provision contained in this chapter are intended for the general guidance of the State. The application of these principles in legislation and administration shall be the duty of the State but shall not be enforceable in any Court of Law'."

**\*Sardar Shaukat Hyat Khan :** Sir, I was surprised to see that the amendment moved just now was not appreciated by Pirzada Saheb for reasons best known to him only though it is very essential and must be incorporated. He might have omitted it by mistake but now he should note it. It should not cause any embarrassment to him, nor would anybody chide him for this omission, because all is well that ends well. Articles 5-6 are very essential and I do not see anything objectionable in it which may be opposed either by Pirzada Saheb or anyone else. In article one it is proposed that within 10 years the Government must make arrangements, enabling every citizen to acquire free education up to the primary standard. Sir, if the Government fail to make it possible even in the course of 10 years for every citizen to acquire free education up to the primary standard, the people will be justified in asking the Government to give an account of what it has done for them so far. Hence it is the duty of the Government to provide for the education of every citizen so that ignorance may be banished from the country. But if the idea behind your reluctance to accept this amendment is subjugation by keeping them ignorant and uneducated, you will stand condemned as dishonest persons before the world. Moreover, it will be an act of enmity on your part towards Pakistan rather than loyalty. In view of these facts, Sir, I see no reason why this amendment should not be accepted.

Sir, as far as the question of untouchability is concerned, I think it must be outlawed. In an Islamic State like Pakistan such distinctions must not exist. While moving the Objectives Resolution the Prime Minister said that since our State has been established, its foundations must be laid on the principles of Islam. In view of these remarks, four or five responsibilities naturally devolve upon an Islamic State and these must be shouldered at any cost. That is, everybody must be well-fed, well-clothed and must be provided with accommodation ; and should have free education and free medical treatment.

**Mr. Abdul Wahid Khan** (Punjab : Muslim) : Where has Islam provided for these things.

**\*Sardar Shaukat Hyat Khan** : Perhaps you do not know. Islam has provided for all these things. All these things were provided for in the days of Caliphate. Food must be provided to every disabled, crippled and decrepit person by the State. Since these are the things which must be necessarily provided for in an Islamic State, there is no reason why they should not be incorporated in the Fundamental Rights which are fully in consistence with the principles of Islam. Do you practise Islamic principles only when you want to protect yourself. Sufee Abdul Hamid, who has recently talked too much of Islamic principles in Lahore, should answer whether these are in accordance with the principles of Islam or not. Are they not worthy of being incorporated in the Constitution which, as you say, is to be framed on the principles as laid down by Islam ? If you do not agree to this, I have every reason to believe that you are deceiving people in the name of Islam. I hope Sufee Saheb will stand and say that they must be accepted. Since these provisions are clearly laid down in the Constitution of Islam, there is no reason why you should deny the people the rights which they are entitled to enjoy. I hope that Sufee Saheb will lend his support to me in this matter. If he does not support me, he will come forward and give his arguments in support thereof. If he does not give his arguments, I shall believe that he has not the courage to do anything without the permission of the Government.

**Moulvi Mohammad Akram Khan** : This is not a thing to be made fun of. You make fun of it.

**\*Sardar Shaukat Hyat Khan** : I do not make fun of it but you do. I am not one who makes fun of such things. You better think yourself and decide as to who is making fun. Then, Sir, the article is as follows :

“The State shall make provision for securing just and human conditions of work and for maternity relief.”

Sir, this article is properly designed to give due protection to women and provide for maternity relief, etc. In articles 5-6 it is proposed that the Judiciary may be separated from the Executive. These worthy gentlemen have always been crying for the separation of the Judiciary from the Executive, but now I fail to understand as to why they are opposed to it. Sir, if these two are not made independent of each other, its effects will be adverse. Suppose, a minister approaches a deputy commissioner in a particular case and persuades him to decide that as he desires it to be, the deputy commissioner will have to give his decision accordingly. Would it, therefore, not be an injustice. I really fail to understand the reasons on account of which this article is not accepted. Sir, whatever I have stated is very important and forms the very basis of the fundamental rights of every citizen which he is entitled to enjoy in all cases. In conclusion, I hope that my friends, instead of making it a party question, will consider the matter fully and accept this amendment.

**The Honourable Pirzada Abdus Sattar Abdur Rahman** : Sir, I am afraid I will have to say again that the Honourable Mover and his supporter do not understand what fundamental rights mean. They are too much in a hurry to bring in all sorts of provisions of the constitution which, if they had read the Basic Principles Committee's Report, are incorporated in it. Taking an instance of the separation of Judiciary from the Executive they should have waited, as they know it very well

that there is a Judiciary Committee appointed and it has submitted its report to the Basic Principles Committee and they should know that this is one of the main questions to be decided by that committee,—so, Sir, they should have waited till that report had come before them. The Judiciary Committee had issued a questionnaire that has been issued to the public and to the Honourable Members of this House as well and so its proper place will be when the report of the Basic Principles Committee comes with regard to judicial matters and then you can send in your proposals or amendments as you like. I am really surprised that all sorts of things are brought in fundamental rights for instance education.

**Shri Dharendra Nath Dutta :** There are three parts and one relates to Directive Principles of State Policy.

**The Honourable Pirzada Abdus Sattar Abdur Rahman :** My friend knows if he has studied that report that the Basic Principles Committee's report contains a chapter No. 1 which deals with Directive Principles of State Policy and there are a number of principles incorporated in that and in it there is an article relating to education. There is in thick type written "Education". Therefore all these points will arise only when the constitution is being made and Directive Principles of State Policy are being decided and when the report of the Basic Principles Committee is being considered. I cannot understand as to how separation of Judiciary from Executive is a fundamental right. It might be a good thing. One of the members has been criticising all these things because they are not in accordance with the principles of Islam according to him, and what he suggests is according to Islam. It is a very good thing for propaganda purposes to say so but he must understand what is the proper place for them to be incorporated. If we are to accept all these amendments then the constitution would be a jumble of disjointed matter brought together and it will be no constitution at all. Therefore I would submit with all respect for my honourable friend that this is not the proper place. These are not fundamental rights. They should be moved when the right time comes and for these reasons I oppose this amendment.

**Shri Dharendra Nath Dutta :** Mr. President, Sir, here in Part III it has been mentioned as Directive Principle of State Policy. As you will see, Sir, Part I deals with Citizenship and Part II with Fundamental Rights and Part III with Directive Principles of State Policy. Therefore this directive principle relating to state policy should also be there.

**The Honourable Pirzada Abdus Sattar Abdur Rahman :** Part III is not there. Part III has been deleted. No doubt Part III deals with Directive Principles of State Policy but only those directive principles which relate to fundamental rights and not directive principles in general. As untouchability was a fundamental right, therefore it came under the Directive Principles of State Policy relating to fundamental rights. You cannot bring in every principle in general.

**Mr. President :** The question is :

"That the following new Articles be added at the end of Part III :

- (1) The State shall provide, within a period of ten years from the commencement of this constitution for free and compulsory primary education for all children above the age of four until they complete the age of fourteen years.
- (2) The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.

- (3) The State shall direct its policy towards securing to each citizen—
  - (i) the right to work, the right to an adequate means of livelihood ;
  - (ii) the right to maintenance in old age and during sickness or loss of capacity to work ;
  - (iii) the right to rest or leisure.
- (4) The State shall make provision for securing just and human conditions of work and for maternity relief.
- (5) The State shall take steps to separate the Judiciary from executive in the public services of the State.
- (6) The provision contained in this chapter are intended for the general guidance of the State. The application of these principles in legislation and administration shall be the duty of the State but shall not be enforceable in any Court of Law’.”

**Shri Dharendra Nath Dutta :** In view of the observations made by the Honourable Minister I do not want to press this amendment.

**Mr. President :** Is there any objection to give leave to withdraw this amendment.

(Voices : No, no.)

The amendment was, by leave of the House, withdrawn.

**Mr. President :** The question is :

“That Part III be omitted.”

The motion was adopted.

**The Honourable Mr. Liaquat Ali Khan :** Sir, I beg to move :

“That the Interim Report of the Committee on Fundamental Rights and on Matters relating to Minorities, as amended, be adopted.”

**Mr. President :** Motion moved :

“That the Interim Report of the Committee on Fundamental Rights and on Matters relating to Minorities, as amended, be adopted.”

**\*Mian Muhammad Iftikharuddin :** Sir, I rise to oppose the motion which the Honourable Liaquat Ali Khan has moved. Sir, the reasons for my opposing this motion are that this report, as presented and even now as amended, is an insult to the fundamental and human rights. Sir, it is not that this report does not contain sufficient safeguards for protecting human rights ; my contention and my charge is that this report actually includes items which go against human rights which go against the principle of liberty, which go against the principle of equality of status of all citizens before law and it also, over and above those simple principles, which one would have expected in any civilized assembly of the world to include and ours has not included them. Over and above that from the Constituent Assembly of Pakistan one would have expected that the principle that common good should take precedence over individual or group interests will be or would have been accepted. That principle too has not been accepted.

Allow me now to prove one by one these three charges that I have levelled against this report. Firstly, Sir, in these four—or it is now three pages of the report—we have seen that safeguards for the maintenance of the present order have been included—safeguards to help people in power to gag all voices of opposition. If, as Mr. Pirzada just now said, Government had just laid before us simple and broad principles.

**Mr. President :** Government has not laid anything before you.

**\*Mian Muhammad Iftikharuddin :** I thank you. I say the majority party or the people who are in greater number in this House or let me put it like this those who believe in the party or those who believe in the views of the Honourable Liaquat Ali Khan. So I say if those people would have presented to us a report containing merely broad principles of fundamental rights without such safeguards, we may not have objected to them and we may have taken the Honourable Pirzada Abdus Sattar at his word and believed that if at some future date when the whole constitution is presented to this Constituent Assembly these principles will be incorporated which are necessary to make freedom real ; to make equality possible or equality of status possible. But actually in this Report they have included items whereby such liberty is impossible, where such equal status cannot be created, no matter what future constitution may bring in, because these are the principles ; these are the fundamental rights ; these are the directives actually for the entire Constitution which will follow. Sir, as I have already pointed out earlier in the course of the debate, the principle of detention without trial is a barbarous principle, is an autocratic principle and is an undemocratic principle and with all humility and respect I say it is an unislamic principle. That principle has been incorporated even in this brief Report. Sir, I would like Honourable Pirzada to get up and say how is it that when this principle is there—we can take his word ; we can believe him that in future such principles would not be made. It has been included merely to enable people who may have come in power to use these laws to maintain themselves in saddle, to maintain themselves in their positions and I am not going to give any instances—we have seen anyhow and this much if I say I am sure you will not object to it that even during the last three years of the existence of Pakistan this law has been misused and that people have suffered purely for factional reasons, purely for personal animosities, because they wanted to criticise the power, the people in power and the people in power thought that the best way to reply to them was to shut them up in jail.

Next thing,—I will not dilate upon that longer because already I have said something on the question of detention without trial—is equally scandalous for framing any constitution in 1950 and for any constitution bearing even remotely or boasting even in a remote and vague way of being Islamic. Sir, in this Report it has been laid down that whenever it is necessary for the common good, the State can order individuals to work without compensation. The State can order them to offer their labour without compensation. So far it is perfectly all right. But in this very Report which just embodies, according to the Honourable Mr. Pirzada Abdus Sattar, broad principles—even in these broad principles it has been thought necessary that whereas labour can be used for the common good without compensation.....

**The Honourable Pirzada Abdus Sattar Abdur Rahman :** Where has it been said without compensation.

**\*Mian Muhammad Iftikharuddin :** It is here ; provided that the State shall not be prevented from imposing compulsory service for public purposes ; whereas it is without compensation.

**The Honourable Pirzada Abdus Sattar Abdur Rahman :** Have you read it properly with first and the last clauses. When you do so, you will find what it exactly means.

**\*Mian Muhammad Iftikharuddin :** I ask the Honourable Pirzada Abdus Sattar, why has it not been worded in the same manner so far as property is concerned. Sir, it is a very simple thing. If it is necessary

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\*Speech not corrected by the Honourable Member.



to order individuals to sell their labour even though they are unwilling, even if you are buying it ; if it is necessary to requisition the services of people of any area for common good ; even if you pay them, why should it be laid down in this Constitution that the State will pay for it. It may be necessary at times that the State may not have the funds to pay, but you have to compare any such situation. I am not talking of any 'ism'. I hope this is clear to the House. I am not talking of any equality or Islamic *masawaat*. I am not talking of that. I am talking of a simple principle of justice, that is that if common good demands that property of a group of individuals—there should, of course, be no victimization—or property beyond a certain level be taken for the good of the people of Pakistan why should it be laid down in the Fundamental Rights that the State cannot give. Occasions can arise ; occasions have arisen in the past in 1947, after the killing in the Punjab and occasion has arisen today in the Punjab when human life is being sacrificed for the good of the propertied people. If today the State finds that it is necessary to expropriate a certain type of landowners in the Punjab in order to help the flood-stricken people, in order to save their lives, I ask a simple question how is it now necessary—not only right—for the State of Pakistan to take over that property even without compensation. Sir, we know every day strikes—wherever they take place in Pakistan—are curbed by force. People are sent to jail for that. People are forced to sell their labour if they do not want and we know that in this very Pakistan where we are just yearning for more capital, where we are begging and actually at times selling ourselves to America and England in order to get more capital, we cannot according to the present law and we do not, as we have governed this country during the last three years, take over the property or the capital of the people in order to industrialise this country. Sir, is not this, I ask, a scandal for a country which boasts that its constitution will be based on moral principles. Therefore, I criticise this Report not because it does not contain enough, not because it should have included certain whims of mine or that of anybody else or slogans even in these four pages. No, I oppose it, because it has laid down such principles whereby liberty, the most important and the most fundamental of all human principles, has been sacrificed, whereby the very simple principle of the civilised world, namely, people's status before law has been sacrificed, and, lastly, the principle that common good must take precedence over the interests of a group or an individual has been ignored. Therefore, I say that this Report should not be accepted. It is a constitution which no civilised country will frame in 1950. I can well believe a constitution framed without such principles or any constitution based on such barbarous laws framed, say, 50 years ago, framed even in 1935, in England, but I cannot believe that this constitution can be framed today outside an imperialist country in any People's Democracy, in any country where people are coming into their own. I could not believe until actually this report was in my hands that such a report could be presented in a country like Pakistan. Sir, this should be remembered on the 6th October, 1950, they are talking of the Constitution which will be framed, they say in 1955, some say in 1960, and some go even beyond that. Let us see what type of constitution will come. Will there be a constitution suited to our proclamation ; worthy of our claim ? But, I tell them, the main point that I want to emphasise in my speech today is that all the principles that are to come have been decided. They have denied liberty ; they have denied equality ; status before law and the principle that common

[Mian Muhammad Iftikharuddin.]

good must take precedence over individual or sectional interest has been equally denied. Sir, this is the thing that I want to impress upon the House and upon the people of Pakistan that they have not to wait and see as to what the constitution is going to be—good or bad. Fundamental policies have been decided and this is what they are. It is not that they do not contain certain good principles or certain good items. It is that they contain most dangerous principles. They have given power to the State which really neutralises all boasts of liberty and equality of status. That is the point, Sir. I hope the House will re-consider this suggestion of mine and instead of looking at it in a factional and party spirit, they will really see that they are today exposing themselves to a very dangerous charge. In short, they have insulted the Objectives Resolution which we passed a year or so ago.

**Mr. Nur Ahmed :** Mr. President, Sir, I rise to support the motion for the adoption of the report. Sir, my Honourable friend, Mian Iftikharuddin, has spoken just before me, has brought a very serious charge practically against all of us by saying that this report contains un-Islamic principles and that no civilized country in the world has framed such a constitution. Sir, I, with all respect to him, would request him to ponder over each of the Articles under Part II of the Report. They are all in consonance with Islamic principles. I would ask him to look to each and every article and ponder over them. With all respect I ask him to compare these articles with the articles in the Indian Constitution and other constitutions of the world. He will find, Sir, that freedom of speech, freedom of liberty, freedom of religion, have been circumscribed not by one conditions but six conditions. If we look into the Fundamental Rights as contained in the Indian Constitution, we will find that each right is restricted by certain conditions. Sir, here in our report, we find the rights are declared according to Islamic principles—unrestricted in most cases. No one can say that they are restricted and that they are not comprehensive. Sir, I ask him to compare these with the rights given under other constitutions of the world. He will find that the rights have been given under certain conditions. But, here, apart from the fact that the Constitution of Pakistan will contain the Objectives Resolution—which I declare is a Charter of Pakistan—it contains all the necessary provisions. No one can say that our provisions are retrograde, reactionary or un-Islamic. Sir, I support the motion for adoption of these principles.

**Begum Jahan Ara Shah Nawaz :** Sir, I rise to support the motion. While doing so at this golden hour in this history of the women's movement in this country, I would very much like to take the opportunity of congratulating the Honourable the Prime Minister, the members of the country's Parliament and of the Committee for giving us the Charter of Women's Rights that we had asked for as Fundamental Rights. Sir, the women's organisations in Pakistan had requested for a charter which would incorporate into it equality of status, equality of opportunity and equal pay for equal work for the workers. For some of us, Sir, the incorporation of all these three as fundamental rights in the basic principles of the constitution, it is more or less a dream realised. Many of us members of whose families have been working for the acceptance of basic principles of Islam for the women of Pakistan for generations this is indeed a golden hour. Sir, by doing so, our nation has come into line with the constitutions of the U.S.S.R. and Turkey as very few Western democracies have given equality or opportunity and equal pay

for equal work as the basic fundamental rights to their women. Allow me, Sir through you, to thank the Honourable the Prime Minister on behalf of the women of Pakistan, irrespective of caste, colour and creed, for giving them this charter of women's rights. Mr. President, Sir, Islam was the first religion in the world that recognised women as an individual member of the State and accepted the principle of *masawaat* in the civic rights of the State. Sir, throughout my tours in the Western countries, wherever I told people this, they would say: But, show us where in any Islamic country, except Turkey which had come under European influence, such rights are being practised? I am glad that today Pakistan has shown that it is going to be a truly Islamic State, and what we had accepted in the Objectives Resolution—equality and social justice—has been implemented by incorporating these in the Fundamental Rights of the Constitution.

Sir, while completely ignoring what has been said by some of the members on the left, I say on the floor of this House that the Report of our Committee is an improvement on the Fundamental Rights in the Indian Constitution. Our report is brief, specific and to the point and incorporates in a few words what they have done in several pages.

Moreover, Sir, as I have said already it is an improvement on the British and United States Constitutions as far as women's rights go. Sir, I was so glad, when yesterday Maulana Mohammad Akram for whom I have the greatest respect and esteem said—when it was pointed out to Begum Ikramullah—“as Begum Shaista—we in Islam recognise women's by their own names”. I would very much like to tell the House an incident of my childhood. One, my paternal grand-father, who was supposed to be an authority on Muslim jurisprudence, always wrote our own name on the envelopes and when some of us objected to this by saying “Grand father! why do you write our names on the envelopes; why not our father's or our husband's names” he smiled and said: “my children! you do not know what you are giving up by accepting such Western customs. Islam has given you a great right which you are giving up by adopting the Western custom of merging yourselves into the names of your husbands or your fathers and thus losing your individuality.”

Then, Sir, in the Western countries the propaganda carried out against Islam is the ill-treatment of women in Islam and in this I am sure the Honourable the Prime Minister will support me as only the other day Begum Liaquat Ali Khan, our esteemed President of All-Pakistan Women's Organisation, while giving us the impressions of her tour in America, told us exactly what I had heard from the lips of some of the Americans during my tour in that country. They know of Islam as a religion whose women are to be as prisoners within the four-walls and men sometimes beat them. Sir, one of my relations who has recently returned from England was relating a very strange incident. He said when he was attending a meeting which was being addressed by a Muslim Missionary who was speaking on the rights of women under the Islamic Personal Law of Shariat, that after he had finished speaking, a gentleman and a lady got up, came on to the platform and there and then accepted Islam. They said that they had been very much impressed by the simplicity of our religion but one thing which they had been told about Islam, was the position of women like slaves and this they had not liked and they were glad to know that it was not so. Well, Sir, this will explain what this propaganda has been and I am glad that the

[Begum Jahan Ara Shah Nawaz.]

first step that the Pakistan Government is taking today is to recognise the fundamental principle of Islam and give women their rightful place as equal citizens with the men.

**Sardar Shaukat Hyat Khan :** May I ask if flattery of Prime Minister and his wife forms part of Islamic teachings ?

**Begum Jahan Ara Shah Nawaz :** No, Sir. The Honourable Member knows and knows full well in his heart of hearts that there is no question of flattery ; I am only saying what the Women's Organisation have asked me to say about this Report—to thank the framers on their behalf.

Mr. President, Sir, it was only in 1886 when the Married Women's Property Act was passed by England that the women in England could hold property or their bank accounts in their own names as previous to this they could not even hold a penny or a single piece of property in their own names. What we had been enjoying for the last 1,400 years they are getting only now. Well, Sir, there is one request which I have to make to some of my non-Muslim Pakistani countrymen here. Now that the equality of status and equality of opportunity have been promised to the women in Pakistan and we Muslim women are enjoying our rights of inheritance, as wives, mothers and daughters, under the Muslim Personal Law of Shariat, I request them to come forward voluntarily with a bill that will give their women their rights of inheritance. Sir, we feel very strongly that while we, as widows and daughters, should enjoy our economic independence, some of our Pakistani sisters belonging to other religion should be deprived of similar privileges. I would request them to voluntarily present a Bill of this type so that their women should also enjoy their rights of inheritance. Sir, I do hope that what has been passed today, will be implemented soon and will be translated into actions and women in Pakistan, irrespective of caste, colour and creed, will enjoy equality in civic rights throughout Pakistan

With these few words, I support the motion.

**Mr. M. A. Khuhro :** Sir, I would like to say a few words in support of the motion for final adoption of this report. I think, Sir, the members of the Constituent Assembly deserve well of the House and should be congratulated, for having got through this important report within a reasonable compass of time. It is necessary that we should make progress and as rapidly as we possibly can with the object of framing the Constitution, which is very much delayed already.

The criticism that the report confers the fundamental right upon the people of the State, but does not go far enough, I do not agree with. The important fundamental rights which are necessary for the citizens have been briefly stated in the Report, but they cover the field which is necessary to be covered. If you see, Sir, Fundamental Rights Part II, Articles 1, 2, 3, 4, 5, right up to Articles Nos. 8 or 9, they contain very important features which briefly stated are—all citizens are given equal right before public law ; all persons are entitled to equal protection under the law. Then, Sir, the right of citizens to move the High Court under the Habeas Corpus Act has also been conferred on the people. Discrimination on the grounds of religion, race, caste, sex, etc., has also been abolished. Then Sir, forced labour and slavery have been made penal offences. Then, Sir, untouchability has also been abolished and no person is to be deprived of his property except by law. No property of a person can be requisitioned without proper compensation being paid for

it. All these necessary and important features that are required are there in the report and have been adopted by the Constituent Assembly. There were amendments moved, which were of course, rightly rejected by the majority of the House, were of the type which either meant repetition or meant include certain clauses which were not necessary or they infringed or intended to infringe the rights of the future legislators of the Provinces and the Centre. The right of legislating is to be conferred,—to be rightly conferred—on the people who will be elected under the right of adult franchise. Even now, Sir, in Punjab, they are having elections under adult franchise. Similarly, we hope that when the final report of our Basic Principles Committee and the Franchise Committee comes before the House, the House would have finally agreed to giving a right to every adult person for exercising a vote. It is left to the people of the country to elect proper representatives. When they elect them, it is their duty to safeguard the interests of the citizens of this country. Naturally, at this time it will not be right for the Constituent Assembly to cover the entire field and restrict the powers of the legislators, whether it be in the provincial field or in the central field. Therefore, all that is really required for the purposes of this report has been covered. This report, I think, is a very important document and it will go down in the history of the country as a great step forward for the progress of the country. Truly it is a people's *Magna Carta*. The lady member who has just sat down has rightly said that women have been given equal rights and equal franchise. I heard my friend Mian Iftikharuddin saying that this report is not worthy of this House and of this country in the year 1950. Is he not aware that even in some of the most progressive countries of Europe women are not given the same rights as men? Therefore, I must say that the Constituent Assembly deserves well of the people of this country, and the members of this House deserve to be congratulated on having accepted this report which confers rights on all people. There is no superior race and there is no inferior race. There is no such thing as an inferior class and a superior class. There is no distinction of race, kind, colour or sect. They are all important factors and they are all in the report, but certain members are in the habit of opposing anything, good, bad or indifferent, for the purpose of gaining the platitudes in the press and for obtaining cheap notoriety. This is not the correct way of dealing with the situation. If anything important has been left out, we can take that into consideration at the time when the draft of the constitution will come before us. Everything will come before the House at its proper time. So, I think all the amendments which have been rejected have been rightly rejected by the House and I hope the House will adopt this report unanimously.

**Mr. Abul Kasem Khan** (East Bengal : Muslim) : Mr. President, Sir I rise to support the motion that has been made by the Honourable Mr. Liaquat Ali Khan. There was no need for me to make a speech at this later hour, but I am afraid the speech made by my Honourable friend, Mian Iftikharuddin, might lead to some misconception outside the House about the motion that we are adopting this evening.

Mian Sahib has tried to make two points. The first point is that there is not enough liberty or that we have not recognised liberty sufficiently enough in our Fundamental Rights. Sir, it is not our business in drafting Fundamental Rights to indulge in unpractical platitudes. Now, liberty has different conception in different countries. In the countries



[Mr. Abul Kasem Khan.]

which are known as behind the 'iron curtain', there is one conception of liberty. There is a different conception of liberty in democratic countries to which, we hope, our country belongs. If a man says that he should have absolute liberty of hanging himself, in the nearest tree, the law comes and says 'No'. So, when Mian Sahib talks of liberty, I believe he is thinking of liberty that is to be found in Arcadia or Utopia and not in the practical world of today.

**Mr. M. A. Khuhro :** They want licence.

**Mr. Abul Kasem Khan :** I should not call it licence, but, as I have said, different people have different conceptions of liberty. But we in the democratic countries have one conception of liberty which is that every one should have equal status in the eye of law and should be in a position to vindicate that status whenever it is challenged or threatened. I ask Mian Sahib to point out anything in our Fundamental Rights which has created a danger to the liberty which we are trying to secure for our people. Of course, if he is thinking of some Utopian liberty, I cannot answer him.

Now, Sir, the next point that the Mian Sahib has tried to make out is that the Fundamental Rights do not give power to the Government expropriate property without compensation. I must say Mian Sahib has been a little inconsistent in making out that point. In one breath he says that our greatest need in Pakistan is the formation of capital without which we cannot raise the living standards of our people. If you want that there should be capital formation in your country, is it the best way to put it in your Fundamental Rights that the Government is absolutely at liberty to take property without the payment of compensation? I would ask Mian Sahib as a practical politician to apply his mind on this aspect of the question. Mian Sahib himself is a propertied man and if he had set an example of giving up all his property for some good cause in Pakistan it would have been a better example than precept. Sir, example is always better than precept. But Mian Sahib said that there should be some provision in the Fundamental Rights by which the Government should be at liberty to expropriate property without compensation. We do not believe in that theory. At the same time, I know that if there is a danger to the freedom or the liberty of Pakistan and when the needs of the country require it, the Government has ample power of having whatever property there is in the country even without compensation. So, the two points that Mian Sahib tried to make out really do not contain any substance. As I was afraid that it might give a wrong impression to the people outside this House who might think that there is something wrong in our Fundamental Rights, I thought it better to express my views on these two points. Sir, the Fundamental Rights should be few, simple and should be clearly stated, so that the people may know what are those Fundamental Rights which can be enforced in any court of law. Sir, I believe that the Fundamental Rights as framed by our Committee are excellent and no reasonable member of the House should take exception to them.

**\*Prof. Raj Kumar Chakraverty :** Mr. President, Sir, I have no desire to detain the House for long at this fag-end of the day's sitting. But, Sir, I shall be failing in my duty if I do not congratulate this House and ourselves over the first part of our constitution-making that we have just finished, namely, the passing of the fundamental rights. This is the very basis of the constitution and I am glad that we have taken the first thing first. Speaking generally about the provisions of this legislation, and speaking as a member of

the minority community, I am happy to note that all citizens have been declared equal before law. I am happy to note that everybody has been declared to be entitled to the equal protection of law. There has been no question of the majority or the minority. I am happy to note that there shall be no discrimination on grounds of religion, caste, sex of place of birth or anything of that sort. I am happy further to note that freedom of conscience and the right to profess, practise and propagate religion has been guaranteed to everybody subject to public order and morality. I am happy also to note that every religious denomination or any section thereof shall be entitled to enjoy the freedom in the management of its religious affairs including the establishment and maintenance of religious and charitable institutions.

Sir, I note that the conception of a religious State is there in some of the laws. In Clause 13 provision has been made for any religious instruction that the Government might impart for any section of its citizens but there also, Sir, you will see that it has been laid down that no person attending any educational institution shall be required to take part in any religious instruction other than that of his own community or denomination; so there is no compulsion for imparting religious instruction to the children of different minority communities, if they do not like to have it.

Then, Sir, I also note that with regard to the special taxes that may be levied for the propagation and maintenance of any religion, there also the minority communities are not to be taxed if it is not a matter of their own religion.

I am also happy to note, Sir, that the personal laws of every section of the citizens of Pakistan have been guaranteed here and that is a very good thing for every one of us.

Lastly, Sir, it was the most pleasant thing for us to pass legislation about untouchability. The last thing that we have done in this House tonight is the taking the decision that untouchability is punishable.

I am happy to note that our Fundamental Rights laws can bear comparison with those of any civilized country in the world. (*Applause*).

I am only sorry, Sir, that we could not persuade the majority of the members of this House in having some provisos against the detention of persons without any trial. It would have been a matter of supreme gratification to us if the provisos which were moved by way of amendments in this House on the subject could be accepted by this House. However, Sir, I had it from the Honourable Mr. Pirzada that the Judiciary Committee is still considering their report and it is still possible to enlarge the powers of the High Court, by which the High Court will be entitled to go into the cases of detention without trial. I hope the Judiciary Committee, before they submit their report will kindly look to that.

Sir, this is a very good beginning and it augurs well for the future of the State, and if this spirit is maintained in framing the other parts of the Constitution of our State, I am sure our achievement will be very great. There are still the Minority Rights to be framed; there are still the reports of the Judiciary Committee and the Franchise Committee to come. They are no less important than the Fundamental Rights but I am sure of one thing, *viz.* now that the Fundamental Rights have

[Prof. Raj Kumar Chakraverty.]

been passed, nothing can come in our Constitution which will be in conflict with or repugnant to these Fundamental Rights. Our basis has been very strong and solid.

Sir, finally I want to conclude with one hope and expectation. It is all very well to have good laws on paper and, speaking generally, Sir, we have got some good laws on paper but everything depends on the way and on the spirit in which the Constitution is worked. I hope and pray that our Rulers—we have got no Rulers—our Government—our own Government—will be permeated with the spirit, with the true spirit, in which we have been able to frame the first part of our Constitution tonight. (*Applause*).

**\*The Honourable Mr. Nurul Amin :** I shall be very brief. I entirely endorse all the expressions made by the Honourable Members of this House from different sides supporting the motion for adoption of the report of the Fundamental Rights Committee. I am sure. Sir, that after this the propaganda against Pakistan—that it is going to be a theocratic State—it is going to be a religious State : it is going to be dominated by the orthodox provisions of religion, which is misunderstood by a section of the people ; and that those citizens of Pakistan who do not profess Islam will be subjected to any disabilities or disqualifications and will not be given rights that are granted to the followers of Islam—all that propaganda will cease. I am sure, Sir, that from now the members of the minority community will raise their voice and will try to meet this notorious and nefarious propaganda against Pakistan and will join hands with us—with the Muslim citizens of this country—to tell the world outside and to those who make this propaganda that Pakistan is going to be a State in which equal rights have been granted to every citizen, in which no religious discrimination or distinction has been made and everybody irrespective of sex, caste or religion has been put on the same footing. I am sure, Sir, that the framers of this Constitution, of which the first step has been taken, will truly, faithfully and honestly propagate the Fundamental Rights that have been granted by this country and this will go a great way to ensure the minorities, who are suffering from a misconception about the State of Pakistan. Unless that misconception is removed from their minds, and for that a duty lies heavily on the intelligentsia of the minority community and more heavily on the members of this Constituent Assembly, to disabuse the minds of the members of that community and tell them freely and frankly that whatever mischievous propaganda might have been made by interested parties against the State of Pakistan, against its Constitution, against this State being a religious or theocratic State, are false and unfounded and should be firmly nailed. This propaganda should have no further place in the country after the adoption of these Fundamental Rights.

**Mr. B. L. Rallia Ram (Punjab : General) :** I do not wish to make a long speech but I do want to take this opportunity of expressing our deepest gratification at the way in which the Constitution has been framed and the liberty and equal opportunity that has been given to all citizens of Pakistan, including the small minority to which I have the honour to belong. I do wish to pay a tribute to the great, liberal policy of our Prime Minister (*Hear, hear*), and I believe that the minorities are as much proud of him as members of his own community. (*Applause*). He belongs to all of us. He is the citizen of Pakistan and personifies in his personality the best, liberal tendencies of the civilized world.

\*Speech not corrected by the Honourable Member.

(*Applause*) and I, therefore, only wish to take this opportunity of saying that the minorities and particularly the small minority to which I belong are fully satisfied and consider it an honour and a privilege to serve the State, which is as much theirs as it is of the major community. (*Applause*).

(The Honourable Mr. Abdul Hamid rose to speak).

**Mr. President :** Please be brief like Mr. Rallia Ram.

**The Honourable Mr. Abdul Hamid (East Bengal : Muslim) :** I think the members of the Committee, who have produced this report, deserve our thanks. They were placed in charge of very important work and they have produced a report which has gone through this House with so little change. For this they certainly deserve our thanks. Gentlemen, much of the misconception about the report hinges on what ought to be in the fundamental rights. Otherwise all would have considered the fundamental rights just passed by this House to be quite fair and in advance of many of the fundamental rights granted by other constitutions of the world. Of course, Mian Iftikharuddin did not agree with us ; he did not think that liberty has been safeguarded but liberty of the individual is not more precious than the life of the State and the existence of the people and their security. There is no doubt that the liberty of some of the individuals on special occasions shall have to be sacrificed for the good and safety of the State, for which we live and for which we are patriotic enough to die.

As regards appropriation of property the Honourable Member says that these fundamental rights are not according to Islamic principles. Will he point out where the Islamic principle give authority for appropriation of property. He is asking us to do something which is not supported by Islam but he seems to have borrowed from other countries. He has mentioned about imperialistic countries but he did not mention any constitution from which we should have drawn our fundamental rights. The Swiss constitution is considered to be very democratic and this committee has drawn many of the fundamental rights from that constitution. The fundamental rights are of very great importance for the minorities. We have incorporated in Fundamental Rights, untouchability which on one occasion I myself thought should not go in as a basic principle of such rights ; because there is an element amongst the Hindus which rightly or wrongly still think that caste system and untouchability is intimately connected with Hindu religion. But as the Hindus have assumed full responsibility we have incorporated that also in the fundamental rights.

With these few words I again thank the members of the Committee for discharging their work so efficiently and well.

(Sardar Shaukat Hyat Khan rose to speak).

**Mr. President :** I think you will also be as brief at this stage.

**Sardar Shaukat Hyat Khan :** (Punjab : Muslim) : I am very mindful of the late hour up to which the House is sitting today.

\*Sir, I am not going to say much. There are one or two points that are troubling me and perhaps my friend will be able to explain them and thus set my doubts at rest. So far as this Constitution is concerned if Mr. Churchill had been the leader of this House (which God forbid), he would have drawn up just such a constitution ; if Mr. Attlee had been the leader of this House, he would have also framed just such a constitution. As both these gentlemen have been recently our overlords, it was

[Sardar Shaukat Hyat Khan.]

incumbent on us to slavishly follow them. In the Churchillian constitution, however, our friends should have been spared the pains of framing the Safety Act to cut the civil liberties. Moreover in the constitutions of both Mr. Churchill and Mr. Attlee the safeguards provided in this constitution for the rich and wealthy classes, should have found no place.

The second point is that our elders glibly repeat "Islam, Islam." I would very respectfully submit that some of you gentlemen have asked Mian Iftikharuddin as to wherein Islam has enjoined confiscation of property with out due compensation. I know very little and am ever ready to learn things. I would put this question: Have we not been told in Islamic History that if the ruling Caliph is in need, he may ask the *Zakat* givers to donate a specified sum, and if they refuse complained the *Caliph* has the right to declare *Jehad* against them. Sir, if this is wrong, it may kindly be pointed out to me. The other thing is that a lot is talked about 'freedom'. Everyone says that we are free and Pakistan has emancipated the common people. I ask what sort of freedom it is in which a tenant is ejected from his land merely for not voting in favour of his landlord. As long as the landlord can eject a tenant and as long as there is no proper provision for the maintenance of such a tenant, there can be no freedom in this country. Until you remove housing scarcity for the under-dog and banish ignorance from the land, you are not free in the real sense of that word. Indulging in mere platitudes would not do.

(Mr. Serajul Islam rose up to speak).

**Mr. President:** Is it very essential that you must speak?

**Mr. Serajul Islam:** I will speak for one or two minutes only. Mr. President, Sir, tonight's happiest achievement is the valuable speech of Honourable Prof. Chakraverty. Sir, the happiest achievement of ours tonight is that the members of the minority community, the representatives of the millions of the minority community outside are all happy. This happy news may rush forth from this Chamber to the outside world and I hope we shall achieve laurel after laurel in the days to come. If at the beginning we achieve this goodwill of the minority communities, I am sure, further achievements are coming one by one. Sir, freedom is not licence; that is also a fundamental principle of modern society. Towards that end these provisions of the report have been adopted. This is a success and on it the future constitution will be successfully chalked out. I have no hesitation and doubt that now a beautiful super-structure of our constitution will be easily raised on this happy foundation. I am, therefore, Sir, very glad to support this motion.

**The Honourable Mr. Liaquat Ali Khan:** Mr. President, is it indeed very gratifying to find that this report has received the unanimous support of the saner and honest members of this House. Sir, the House would recall the remarks that I made when I was moving the Objectives Resolution that the minorities have nothing to fear in an Islamic State. On the contrary the best guarantee for the safety of the rights of minorities was if Pakistan could be created into a really Islamic State. Sir, as pointed by Mr. Serajul Islam it has really given all the Muslim members of this House very great satisfaction that the Members of the minority communities are satisfied with the fundamental rights that have been provided for them in this Report. It has given us great satisfaction for the reason that as we are in a majority not only in this House but in Pakistan: we are happy to find that we have succeeded in discharging our duty honestly and sincerely. That is the reason why

[The Honourable Mr. Liaquat Ali Khan.]

I feel and why I say that it has given us the greatest satisfaction and I would again like to repeat to the minorities in Pakistan through the Honourable Members of this House that they are safe in a Godly State ; they are unsafe in a Godless State.

**Mr. President :** The question before the House is :

"That the Interim Report of the Committee on Fundamental Rights and matters relating to Minorities, as amended, be adopted."

The motion was adopted.

## THE PAKISTAN CITIZENSHIP BILL

**The Honourable Khwaja Shahabuddin** (East Bengal : Muslim) : Sir, I beg to move :

"That the Bill to provide for Pakistan Citizenship be referred to a Select Committee consisting of :

- (1) The Honourable Mr. J. N. Mandal—*Chairman*,
- (2) The Honourable Pirzada Abdus Sattar Abdur Rahman,
- (3) Mr. Azizuddin Ahmad,
- (4) Mr. Ghulam Bhik Nairang,
- (5) Mr. Shahoodul Haque,
- (6) Begum J. A. Shah Nawaz,
- (7) Mr. D. N. Dutta,
- (8) Mr. J. C. Majumdar and  
the Mover,

with instructions to report within three months and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be three."

Sir, I do not think at this late hour, the Honourable members would like me to make a speech by going into various provisions of the Bill. I hope this motion will be accepted.

**Mr. President :** The question is :

"That the Bill to provide for Pakistan Citizenship be referred to a Select Committee consisting of :

- (1) The Honourable Mr. J. N. Mandal—*Chairman*,
- (2) The Honourable Pirzada Abdus Sattar Abdur Rahman,
- (3) Mr. Azizuddin Ahmad,
- (4) Mr. Ghulam Bhik Nairang,
- (5) Mr. Shahoodul Haque,
- (6) Begum J. A. Shah Nawaz,
- (7) Mr. D. N. Dutta,
- (8) Mr. J. C. Majumdar and  
the Mover,

with instructions to report within three months and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be three."

The motion was adopted.

## THE CONSTITUTION (AMENDMENT) BILL

**The Honourable Mr. Liaquat Ali Khan** (East Bengal : Muslim) : Sir, I beg to introduce the Bill further to amend the Government of India Act, 1935, and the Indian Independence Act, 1947.



## THE INTERIM REPORT OF THE BASIC PRINCIPLES COMMITTEE

**Mr. President :** So far as the next item is concerned, let it be moved and the rest of it can be taken up later on.

**Prof. Raj Kumar Chakraverty** (East Bengal : General) : Let us go up to Twelve of the Clock.

**The Honourable Mr. Nurul Amin** (East Bengal : Muslim) : Sir, I think it is already 9 o'clock. Of course, Mr. Liaquat Ali Khan will be making a speech because without a speech his motion will become motionless and that speech will take some time. I think sufficient time should be allowed for making the speech.

**Mr. President :** If that seems to be the desire of the House, I accept it. The House stands adjourned till 5 P.M. tomorrow.

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The Assembly then adjourned till Five of the Clock, on Saturday, the 7th October, 1950.